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CRACK THE CODE

The Internal Revenue Code of 2025

Unlocking American Innovation and
the Potential of Democratic Capitalism
Through the Federal Tax Code

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.

PATRIOTIC MILLIONAIRES

Setting the stage for the next 250 years of American Democratic Capitalism.

How do you rig an economy? You start with the tax code, of course. The architects of the Reagan Revolution understood this, which is why their revolution went in reverse. The rich overthrew the poor…and the middle class. With the Economic Recovery Tax Act of 1981, they not only made tax policy that ensured the fruits of the economy flowed largely in their direction, they launched a movement lasting through six presidencies (yes, including Clinton and Obama) that heaped tax break after tax break on the wealthiest Americans regardless of which political party was in charge.

For nearly a half-century now, tax policies that benefit the rich and only the rich have been sold to the American public on the ludicrous notion that doing so would create jobs, spur growth, and eventually the benefits would "trickle-down." They haven't. Cutting taxes on the rich increases inequality, and offers no offsetting economic benefit.[1]

They rigged the economy. America is paying the price.

Inequality in America is at a 100-year high, a level worse than any other advanced country, and worse than we experienced during the Gilded Age. As currently constructed, the federal tax code - formally known as the Internal Revenue Code of 1986 (yes, still) - will in the years ahead exacerbate inequality even further. A bad problem will be made worse *by the tax code*. It's a mess, overridden with loopholes and laden with preferences for those at the very top over working people trying to get to the top (or even the middle). The majority of Americans – 71% – know that.[2] They believe the economy is rigged against them. And they're right.

The question now is: How do you un-rig the economy? The answer is the same. You start with the tax code. It's time to enact a new tax code that drives the benefits of the economy directly into the pockets of working people and requires those who have benefited the most from America's economic structure to recycle 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 going much further to reset our tax framework to one that will preserve and strengthen American Democratic Capitalism.

The 2024 election will determine who controls tax policy - both which party and which part of which party - during the pivotal 2025 sunsetting of most of the provisions of the Tax Cuts and Jobs Act of 2017 (TCJA) that affect individual taxpayers. 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 which doesn't - one that instead mitigates inequality and protects our capitalist democracy for the long term.

This memo outlines the "**Preserve Democratic Capitalism Tax Agenda**," a vision for how our nation can use the sunsetting provisions of the TCJA to spur a new revolution to *un*rig our tax code, tax those at the top according to their level of income instead of parsing how that income was generated, lift the tax burden off of those who haven't yet provided for themselves, demand those with significant wealth pay more than the merely affluent, and constrain the accumulation of stratospheric wealth enough 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 constrain America's extreme levels of inequality permanently by connecting the level of wealth taxation to the level of inequality.

The Preserve Democratic Capitalism Tax Agenda: Three Tax Principles That Will Restore a Distribution of Economic Gains Conducive to a Stable Capitalist Democracy.

Because we can hear the objections coming from a mile away, let's clarify one thing: We like being rich. We plan to continue being rich. This agenda is not in opposition to rich people. As a membership organization made up exclusively of multi-millionaires and billionaires, we are certainly not against the accumulation of wealth. We are, however, against extreme wealth concentration and inequality levels that threaten both the stability of our nation and our ability to make money.

We don't want to, nor could we, fully eliminate inequality in a capitalist democracy. Instead, the goal should be "baby bear inequality": a level that is just right, adequately incentivizing innovation and work but without the harmful effects of extreme inequality. Presently, the after-tax rewards for innovation in America go far beyond the necessary incentive. For example, Bill Gates undoubtedly would have still created Microsoft if his upside had been more wealth than the next three generations of his descendants could consume, rather than the next thirty generations. By right-sizing the after-tax rewards for innovation and work, we can restore the vibrancy our economy and our democracy have lost over recent decades.

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 in through birth into the right family, an investment gain, or a paycheck. At the upper income levels, it should all be taxed at the same rates.

Instead, our current tax code defines multiple categories of income, with varying 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. Income from work – wages - is treated most harshly in the tax code, except for the income from the work of private equity and hedge fund managers, which is typically taxed at the 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. That means:

- 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
- Eliminating the so-called pass-through deduction
- Adopting the Billionaire Minimum Income Tax, which would impose a minimum tax on a wealthy household's true economic income, including unrealized capital gains, thereby eliminating the incentive for billionaires to hoard assets and avoid selling, and instead live on low-interest personal loans

Second: A tax code that begins with a full "cost of living" exemption from income tax and imposes 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 around $14,000). 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 cost of living wage, 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 to determine a living wage at the national level for a single person and for a married couple living alone.[3]

A "cost of living" exemption would simply extend to compliant taxpayers the grace our tax law already affords to so-called delinquent taxpayers (people behind on their tax obligation). Under the Collection Financial Standards, which govern the collection of back taxes by the IRS, a delinquent taxpayer is allowed to keep income equal to "basic living expenses," in amounts roughly comparable to those reflected in the Living Wage Calculator, before requiring any current income to be paid for back taxes.[4] It makes no sense that our tax law grants compliant taxpayers an allowance for living expenses that is substantially smaller than the one granted to delinquent taxpayers.

At the other end of the income scale, upper-income tax brackets must reflect the differences between the rich, the ultra-rich, and the obscenely rich. Currently, the top income bracket (37%) threshold is $693,750 for a married couple filing jointly. While this is 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.

Third: A tax code that includes a specific tax designed to rein in wealth concentration.

The measures we propose above will go a long way towards addressing America's extreme inequality. But our tax code should also include provisions that *directly* address this existential threat to our national stability and the effective functioning of our democracy. To that end, we have proposed the OLIGARCH Act,[5] a wealth tax that functions solely to constrain undue wealth concentration, where the level of taxation is tied directly to the level of inequality in the country.

The **OLIGARCH (Oppose Limitless Inequality Growth and Restore Civil Harmony) 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, with marginal rates at 2, 4, 6, and 8 percent respectively. It will wax and wane with 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 vs. 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*

The tax code has been a central driver of growing inequality in America for decades. We have reached a point where the concentration of wealth is unsustainable. If our economy and our democracy are to survive, we must fundamentally reimagine our tax code. For our future, our grandchildren's future, and our country's future, we must tax the rich. The three principles above provide a stable platform on which American Democratic Capitalism can thrive as our great nation enters its second 250 years.

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 for purposes of achieving a better revenue score for TCJA, with the hope that they would be extended by a subsequent Congress. Due to the current divisions in the government, 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 actually 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 whether they should be allowed to expire or be 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.[8]

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.

For the annual determination of a living wage, we recommend the methodology used by the Massachusetts Institute of Technology for its Living Wage Calculator to determine a living wage at the national level for a single person and for a married couple.[9] 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 2023, that would translate to a standard deduction of about $36,000 for a single person and about $56,000 for a married couple filing jointly.

We recommend in connection with this change that itemized deductions be eliminated and replaced with a more limited list of "above-the-line" deductions, which would include state and local income

taxes and charitable contributions, but exclude state and local property and sales tax and mortgage interest.

Changes to the Child Tax Credit and Deductions for Dependents

Explanation: The TCJA made changes to the provisions of the tax code that reduce tax for taxpayers with dependent children; specifically, the deduction for exemptions for dependents and the child tax credit. The net effect of the changes was beneficial to most taxpayers with dependent children, with the exception of some taxpayers with children over age 16.

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 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.

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, expanding access for some lower-income households. The TCJA changes 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, which expanded access for higher-income households.

The TCJA also created a $500 credit for any dependent, such as a child over age 16, who is not 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 ages 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. 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.

Further, 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 easily can 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%, causing over $6 million to qualify for the 20 percent deduction under Section 199A.

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.

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 to overcome its glaring defects. It was an arbitrary determination that the income 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 has brought wealth concentration in America to a historic - and democracy-threatening – extreme.

Recommended Additional Action: We recommend that to prevent tax avoidance through the conversion of existing pass-through entities to corporations, the 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 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) doubled the amount that can be excluded from estate and gift tax. If the section is allowed to expire, the current exclusion from estate and gift tax, $12.92 million per person and $25.84 million for a married couple, will be halved, to $6.46 million and $12.92 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 $12.92 million exclusion from estate tax for a married couple, at a 40 percent estate tax rate, would seem like an unnecessary $5.17 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 $12.92 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 centuries, 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 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. 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 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 $693,750.

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 $5 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 recommend Section 164(b)(6) be allowed to expire.

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 that context into consideration and, for that reason, we have concluded that eliminating the cap is the best policy. First, it encourages state-based investment and reduces the incentive for states to engage in "tax competition," which we see as a destructive race to the bottom that ultimately causes states to decimate their revenue bases and force themselves to cut vital services to their residents. Second, it encourages state level policymakers to rely more on progressive income taxes and less on regressive consumption and property taxes. Finally, it avoids double taxation. Theoretically, if a deduction for state income tax were not allowed at the federal level, a person's combined federal and state tax rate could exceed 100 percent.

Recommendations for 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.

A full deduction should be allowed for state income tax for the reasons we discuss above. In fact, the deduction for state and local income tax should be changed from an itemized deduction to an "above-the-line" deduction (i.e. taken in the calculation of Adjusted Gross Income). We see no reason the tax benefit for state and local income tax should be subject to the limitations imposed on itemized deductions. We also believe a deduction for state and local income tax payments should be allowed in computing a taxpayer's alternative minimum tax liability.

However, deductions for regressive property and consumption tax payments are not justified and should not be allowed. Property tax deductions serve to subsidize the cost of mansions. And a property tax deduction for homeowners discriminates against renters, who effectively pay the property tax of their landlords in the form of rent but who do not receive the benefit of a deduction. 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 offset 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 eliminated completely. 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)) [Note: 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.]

Recommendations 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 Restore Civil Harmony (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, 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's 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 creating 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 much 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 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% on all wealth over 1,000,000 times 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 tax. 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" – wealth so great that factors like living expenses that ordinarily serve as natural constraints on 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 the ultra-wealthy. Given those realities, and because the purpose for a separate tax that falls only on the ultra-wealthy is to constrain their accumulation of wealth, a tax based on wealth above a level anyone would consider extreme in comparison to the wealth 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 experts, however, do not agree, believing 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 level of 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.

End Notes

[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.

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