DECEMBER 18, 2017

The Honorable Paul Ryan  The Honorable Nancy Pelosi
Speaker of the House  Democratic Leader
United States House of Representatives  United States House of Representatives
1233 Longworth House Office Building  233 Cannon House Office Building
Washington, D.C. 20515  Washington, D.C. 20515

The Honorable Mitch McConnell  The Honorable Chuck Schumer
Majority Leader  Democratic Leader
United States Senate  United States Senate
317 Russell Senate Office Building  322 Hart Senate Office Building
Washington, D.C. 20510  Washington, D.C. 20510

RE: Oppose H.R.1, the Tax Cuts and Jobs Act (TCJA)

Dear Speaker Ryan, Leader McConnell, Leader Pelosi, and Leader Schumer,

On behalf of the Financial Accountability and Corporate Transparency Coalition (FACT) Coalition, we write to urge you to oppose H.R.1, the Tax Cuts and Jobs Act (TCJA). This bill would create significant new tax incentives to move U.S. jobs, profits, and operations overseas, while exploding the deficit. The bill’s complicated structure also creates multiple new loopholes to allow for expanded tax avoidance by large, multinational companies at the expense of small businesses and wholly domestic companies.

The FACT Coalition is a non-partisan alliance of more than 100 state, national, and international organizations working toward a fair tax system that addresses the challenges of a global economy and promoting policies to combat the harmful impacts of corrupt financial practices.1

The final conference bill would move the country to a territorial tax system. The primary goal of a territorial system is to permit offshore corporate profits to escape U.S. tax. Taxpayers already lose an estimated $100 billion every year to aggressive tax avoidance by multinational companies.2 These changes would further incentivize corporate profit shifting abroad — leaving regular taxpayers to pick up the tab.3

The recently released “Paradise Papers” uncovered a series of corporate tax avoidance schemes, including at least one in which a company declared billions in “stateless income” that has no tax residency in any country anywhere in the world.4 The leak exposed tens of billions of dollars in

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1 For a full list of Coalition members, visit https://thefactcoalition.org/about/coalition-members-and-supporters/
corporate profits that were moved out of the U.S. to tax havens. Instead of preventing a repeat of that
tax-dodging behavior, the TCJA would facilitate some of that profit shifting.\(^5\) Worse, certain provisions
would create new incentives to move jobs and operations overseas.

That is one reason Senator Ron Johnson voiced his concerns about the bill saying, “With a territorial
system, there will be a real incentive to keep manufacturing overseas.”\(^6\) He is correct.

Normal returns on assets located overseas and doing business around the world will not be taxed by the
United States at all. Intangible assets (e.g. logos, patents, rights to the name of the company) would be
taxed at a low rate of between 10.5 and 13.125 percent. If tangible assets are shifted from the U.S. to
an offshore affiliate, a formula would recalculate a company’s taxes using a 10 percent rate. Only those
tangible assets in the U.S. would be taxed at the 21 percent rate.

In short, the TCJA would create a tax regime that incentivizes companies to do everything possible to
minimize their physical presence in the United States. It would be a significant setback for U.S. workers
already struggling to compete globally as well as propel a devastating increase in the deficit.

The bill also establishes low rates for companies that have engaged in the offshoring of profits in the
past. A small number of very large multinational companies currently have $2.6 trillion in profits booked
offshore.\(^7\) The bill rewards that limited number of companies by giving them a $413 billion tax break on
their offshore profits — profits that are already earned.\(^8\)

There is no economic justification for tax breaks on past corporate profits. In theory, tax policy
incentivizes future behavior. Taxing companies using the rate at the time the profits were earned (35
percent) does not reduce or take away any future incentives to invest in jobs or factories or other
operations. Promises that cutting taxes on those foreign profits would boost the U.S. economy are
disproved by history. When Congress last passed a so-called “tax holiday” for multinational corporations
in 2004, the companies used the money for executive bonuses and stock buybacks.\(^9\) The 15 companies
that took the greatest advantage of a special 5 percent tax rate proceeded to lay off 21,000 workers in
the succeeding two years.\(^10\) They made no additional investments in research and development or
facilities here at home.\(^11\) Nothing suggests a new tax giveaway would lead to different results. In fact,

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\(^5\) Richard Phillips, “The Senate Tax Plan’s Big Giveaway to Multinational Corporations,” *Institute on Taxation and
corporations/.

November 15, 2017, http://on.wsj.com/2hL7xIF.

\(^7\) Richard Phillips, “Multinational Corporations Would Receive $413 Billion in Tax Breaks from Congressional

\(^8\) Ibid.

Consequences of the Homeland Investment Act,” *National Bureau of Economic Research*, June 2009, pg. 19,

Multinationals.” *U.S. Senate Committee on Homeland Security and Governmental Affairs*, October 2011,

\(^11\) Ibid.
Goldman Sachs analysts recently wrote that they do not believe the tax holiday would have much of an impact on the economy.\textsuperscript{12}

The bill and its shift to a territorial system also do nothing to level the playing field for small business. Just the opposite: The bill would further tilt the field in favor of large, multinational firms by giving them preferential tax rates. Large corporations already have built-in advantages over small businesses that are inherent in a free market system. But Congress must not put its thumb on the scale of multinationals over main street businesses.

Public opinion polls consistently demonstrate that lowering the U.S. tax rate on corporate foreign profits is deeply unpopular across the political spectrum.\textsuperscript{13} We urge you to oppose final passage of the Tax Cuts and Job Act.

For questions or additional information, please contact Clark Gascoigne at cgascoigne@thefactcoalition.org.

Sincerely,

Gary Kalman
Executive Director
The FACT Coalition

Clark Gascoigne
Deputy Director
The FACT Coalition

cc Members of the United States House of Representatives
Members of the United States Senate
