Testimony

of

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for the

Senate Committee on the Budget

hearing on

The Great Tax Escape: Closing Corporate Loopholes that Reward Offshoring Jobs and Profits

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Good morning Chairman Whitehouse, Ranking Member Grassley, and members of the Committee. My name is Roy Houseman, I am the Legislative Director of the United Steelworkers (USW), and I have the honor to provide this testimony on behalf of both USW and the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), representing 60-member unions and their nearly 13 million members. AFL-CIO President Liz Shuler and USW President David McCall give their regards.

USW is the largest manufacturing union in North America, representing 850,000 active and retired members in a wide range of industries, including steel, aluminum, rubber and tires, paper, glassmaking, mining, and oil and gas refining. The union also represents healthcare workers, graduate students, and we proudly build and maintain the aircraft carriers that are the heart of our nation's national defense capacity.

The success of our union's members, member companies, and really every U.S. based private sector employer is very much dependent on the tax and trade policies that elected leaders like yourselves choose to vote for and implement for our great nation. However, our nation's tax laws and the impact they have on where companies operate and how they source their products impacts every worker not only in the factories, but on the farms and fields and working across the rest of the public and private sector.

That is why the AFL-CIO and USW strongly support the No Tax Breaks for Outsourcing (S. 357 / H.R. 884), sponsored by Chairman Whitehouse and Representative Doggett, respectively. For USW, this legislation reprioritizes the tax code toward American manufacturing and corrects policies which disadvantage American-based companies who do not shift manufacturing plants overseas. As countries across the globe look to invest in and expand their own manufacturing prowess, our elected leaders need to rethink the tax policy choices voted on by previous Congresses and enacted by previous administrations.

I am certain that the Tax Cuts and Jobs Act of 2017 (TCJA), also known as the "Trump tax bill", remains divisive in the United States Senate and the AFL-CIO and USW still stand strongly opposed to the legislation for reasons such as More than half the benefits of the Trump tax law in 2020 went to the top 5%.[1] However for the purpose of this hearing, the union implores both sides of the aisle to rethink tax incentives that provide benefits to multi-national corporations to outsource their production to other countries, foes and friends alike. American companies and workers are in global economic competition, and the last thing we want to do is give hundreds of billions of dollars in subsidies to companies who won't bring jobs home. Our economic and national security depends on a strong manufacturing base.

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[1] ITEP, "TCJA by the Numbers, 2020", August 28, 2019

For America's workers, a fair corporate tax system offers a playing field tilted toward domestic employers, and does not give an unfair advantage to multinational companies that offshore production and outsource jobs. Today, the United States, because of laws now on the books, effectively allows companies to be headquartered in the U.S., benefiting from the protections of U.S. laws and the support of the U.S. government's programs and policies. All the while, they do not pay taxes at the same rates the companies that actually keep their operations domestic do.

The U.S., prior to TCJA, long held a worldwide tax system, so that income earned in other countries was still subject to U.S. tax. However, if a U.S. company did not send the money back to the U.S. from its foreign subsidiaries in a process commonly called "repatriation", they paid no tax on those earning (minus whatever taxes they paid the country in which they operated). This offshore hoarding of foreign profits by U.S. companies became even more profitable because Congress had a pattern of giving companies tax holidays every few years, allowing firms to bring profits back, and either pay no, or very little in, taxes. This hoard and hide until you get a better deal approach encouraged outsourcing as companies piled up profits and lobbied Congress for a tax holiday.

TCJA did not fix this problem. Specifically, the bill gave a tax holiday by requiring corporations that accumulated cash and other assets overseas to bring all of it back, but at tax rates well below the 21 percent tax rate domestic companies pay. Tax bill drafters then created a complex system where the profits of U.S. based multi-nationals' overseas subsidiaries were effectively subject to a minimum tax rate of 10.5 percent.[2] It is my sincere hope that every senator here understands the significant incentive that multi-nationals have over domestic companies by paying half the corporate rate on their overseas profits.

It is important to note that foreign governments already offer significant subsidies to companies to encourage locating overseas. USW has fought illegal subsidies by China, and a host of other countries, through our nation's anti-dumping and countervailing duty laws with reasonable success, however, this is basically akin to playing whack-a-mole. One database currently contains a total of 5,977 subsidy policy changes and awards implemented by other nations.[3] For the regular union member, it can be frustrating that U.S. tax code currently heaps a tax subsidy on top of a raft of foreign subsidies to encourage outsourcing. This unequal treatment between domestic and multi-national manufacturers is an unacceptable tax loophole. As my fellow witness and former U.S. Treasury official, Kim Clausing, highlighted – TCJA was an "America Last" corporate tax structure.[4]

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[2] U.S. Treasury Department, "Why the United States Needs a 21% Minimum Tax on Corporate Foreign Earnings", September 7, 2021.

[3] Global Trade Alert, "Subsidies and Market Access Towards an Inventory of Corporate Subsidies by China, the European Union, and the United States: The 28th Global Trade Alert Report", 2021.

[4] NY Times, "Tax Law May Send Factories and Jobs Abroad, Critics Say", January 8, 2018.

Research shows that since TCJA passed the Global Intangible Low-Taxed Income (GILTI) provisions have introduced a contradictory incentive for U.S. multi-national corporations with higher returns from intangible assets to investment in foreign firms with lower returns on tangible property.[5] No Tax Breaks for Outsourcing addresses this issue by fixing this GILTI rate problem with provisions to assess on a country-by-country basis, and eliminate the exemption from GILTI for foreign physical assets. By cleaning up this GILTI rate, Congress can put the American worker first.

Having been a former shop floor paper worker myself, I am confident that the vast majority of USW members file their 1040 tax form, grumble a bit about their taxes, and eagerly await any refund to which they are entitled. However, if I were to ask them if they felt it made any sense that American corporations, as a group, reported to the IRS that they earned $60 billion in the Cayman Islands in 2019 when the entire economic output of the tiny nation was just $6 billion for that year, I am pretty confident they could call this out as a tax loophole.[6] It's time to end this doublespeak math and start treating tax havens for what they are. No Tax Breaks for Outsourcing would ensure that these flags of convenience (FOC) – "foreign" corporations managed and controlled in the U.S., but producing internationally – are seen for what they are: American companies. The legislation, if it became law, would ensure corporations worth $50 million or more and managed and controlled within the U.S. are treated as a U.S. entity, and subject them to the same tax as other U.S. taxpayers.

The practices mentioned above cost the United States tens of billions in tax revenues every year. Similar legislation to the No Tax Breaks for Outsourcing Act received a Joint Committee on Taxation (JCT) score, which estimated that the bill closed off nearly $1 trillion in tax loopholes over a ten-year budget window.[7] To give perspective, Congress and President Biden, in a bipartisan fashion, funded and signed a major investment in our domestic semi-conductor industry, commonly known as CHIPS, with the potential to create hundreds of thousands of jobs, and maintain our global competitive edge in semi-conductors for around $79 billion.[8] Congress could fund 12 CHIPS-style bills with the revenue that they currently give away to multi-nationals in the tax code. The Biden administration, in its Made in America tax plan, included a number of features from the No Tax Breaks for Outsourcing Act. This is a strong indication to us that Senators could work in a bipartisan fashion to support American manufacturing for voters in their states, and succeed in these efforts.

When the average corporate tax rate for larger corporations is 7.8 percent, while the average American family pays 13.6 percent, we need to rethink our tax policy

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[5] Social Science Research Network, "The Impact of U.S. Tax Reform on U.S. Firm Acquisitions of Domestic and Foreign Targets", June 12, 2020.
[6] Institute on Taxation and Economic Policy, "The No Tax Breaks for Outsourcing Act Is Needed More Than Ever", February 14, 2023.
[7] U.S. Senator Sanders, "Corporate Tax Dodging Prevention Act score of offshore portion", March 2, 2021.
[8] U.S. Congressional Budget Office, "Legislation Enacted in the Second Session of the 117th Congress That Affects Mandatory Spending or Revenues", March 2023.

to ensure resources are being allocated more efficiently.[9] Money parked in International Monetary Fund designated tax havens, like the 61 percent of all U.S. overseas earnings domiciled in seven countries, is not an efficient use of resources for workers or government.

It is with extreme confidence that I could go to nearly any USW member in one of your states, explain the basics of No Tax Breaks for Outsourcing Act, and they would see this as sensible policy that bolsters our democracy, gets unproductive money out of tax shelters and invests it in the U.S. economy, and helps their employers be more competitive. Let's use our tax code to build manufacturing plants in America, not overseas, so that we can export – not just our goods – but our ideals. My written testimony also highlights several other legislative proposals endorsed by the AFL-CIO and USW that would have a positive budgetary effect for the U.S. government.

Thank you and I look forward to answering any questions you may have.

[9] U.S. Joint Committee on Taxation, "U.S. International Tax Policy: Overview and Analysis (JCX-16R-21)", April 19, 2021.

AFL-CIO and USW Endorsed Legislative Proposals in Budget and Tax Space

S. 638 – Disclosure of Tax Havens and Offshoring Act

Led by Senator Van Hollen, this legislative proposal is an important part of the larger suite of solutions to the problem of international corporate tax dodging. The legislation directs the U.S. Securities and Exchange Commission (SEC) to mandate public disclosure of country-by-country financial reports by large corporations. These reports would include basic information from a corporation on each of their subsidiaries, and country-by-country financial information that accounts for all of their subsidiaries in each country – including profits, taxes, employees, and tangible assets.[10]

S. 737 – No Tax Breaks for Union Busting Act

Led by Senator Casey, this legislative proposal would classify businesses' interference in worker organizing campaigns as non-tax deductible, similar to how corporate political speech or lobbying is already treated in the tax code. Business write-offs should be reserved for genuine business activities, not for interference in workers' elections or collective actions.[11]

S. 738 – The Tax Fairness for Workers Act of 2023

Led by Senator Casey, this legislative proposal would restore the deduction for unreimbursed employee expenses including (1) job search expenses, (2) business travel, (3) the out of pocket cost of uniforms and tools, and (4) other costs attributable to being an employee. (These itemized deductions must exceed 2 percent of adjusted gross income.) The legislation would also restore and improve the tax deduction for union dues, recognizing the public benefit that collective bargaining has on incomes, communities, and the nation.[12]

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[10] U.S. Senator Van Hollen, "One-Pager – Disclosure of Tax Havens and Offshoring Act", March 2, 2023.
[11] U.S. Senator Casey, "No Tax Breaks for Union Busting Act of 2023", March 9, 2023.
[12] U.S. Senator Casey, "The Tax Fairness for Workers Act of 2023", March 9, 2023.