

Congress of the United States
Washington, DC 20515

January 19, 2022

The Honorable Janet Yellen
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Yellen,

We are concerned by the Administration's unilateral effort to commit the United States to global tax policies that could diminish the United States' competitiveness on a global scale and have grave consequences for our domestic economy. Furthermore, we believe that the Constitution does not permit the Administration to bind the United States internationally to such policies without express Congressional consent. Because the Organization for Economic Co-operation and Development (OECD) Two-Pillar Solution to Address Tax Challenges Arising from the Digitalization of the Economy implicates core Congressional revenue-raising powers, implementing legislation is required for either pillar to have domestic legal effect. Therefore, we urge the Administration to work with Congress to examine the recent changes to international tax policy that it has embraced in this context, before making additional undertakings to foreign countries that lack the Congressional support necessary to be implemented at home.

As you know, recent changes to U.S. domestic and international tax policy just began taking effect after the enactment of the 2017 *Tax Cuts and Jobs Act (TCJA)*. TCJA changed our tax system for the better, moving the United States toward a modern, territorial international tax system. Since TCJA's enactment, we have seen an abrupt halt in corporate inversions and a measurable return of investment to the United States. Instead of building on the demonstrated success of the 2017 tax reform, the Administration is proposing to burden American firms with a new set of international obligations.

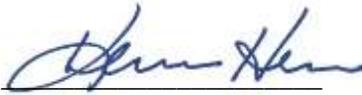
Our international treaty network has worked well over the last century to promote bilateral trade, investment, and prosperity. We understand the importance of progress on new global tax agreements, but we believe that Congress must approve any commitments that might erode the U.S. revenue base or significantly impact bilateral trade and investment flows.

It is extremely troubling that the Administration has made promises to the world without sufficient bipartisan, bicameral consultation. For example, we understand that the Administration has encouraged its foreign negotiating partners not to treat the United States' Global Intangible Low Tax Income (GILTI) as a qualifying minimum tax under the OECD's Pillar 2, risking adverse consequences for U.S. headquartered firms. The global minimum tax structure adopted by the OECD, therefore, favors foreign-headquartered companies and workers over American ones. According to the OECD, the Administration also has made a unilateral commitment to

abolish the TCJA deduction for Foreign-Derived Intangible Income (FDII) which Congress created to encourage U.S. and foreign firms to develop and maintain intellectual property here in the United States. We do not concede that FDII is a harmful tax regime in any way.

The necessity of Congressional action to carry out international tax agreements is clear from the text and structure of the Constitution. Therefore, it is a fool's errand for the Administration to engage in the OECD digitalization tax agreement negotiations without substantive bipartisan input from tax-writing committees in the House and Senate. A go-it-alone approach that fails to fully comply with the Constitution's demands will not produce a durable result at the OECD.

Sincerely,



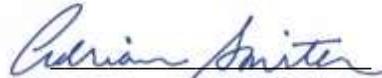
Kevin Hern
Member of Congress



Kevin Brady
Member of Congress



Vern Buchanan
Member of Congress



Adrian Smith
Member of Congress



Tom Reed
Member of Congress



Mike Kelly
Member of Congress



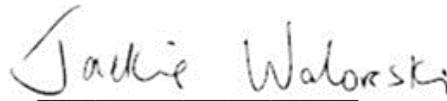
Jason Smith
Member of Congress



Tom Rice
Member of Congress



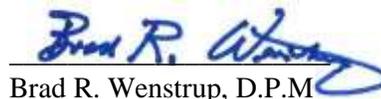
David Schweikert
Member of Congress



Jackie Walorski
Member of Congress



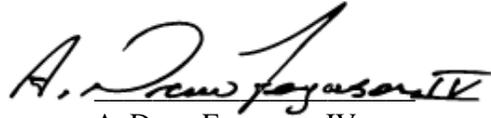
Darin LaHood
Member of Congress



Brad R. Wenstrup, D.P.M.
Member of Congress



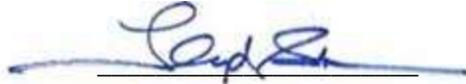
Jodey C. Arrington
Member of Congress



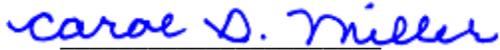
A. Drew Ferguson, IV
Member of Congress



Ron Estes
Member of Congress



Lloyd Smucker
Member of Congress



Carol D. Miller
Member of Congress