



January 10, 2022

The Honorable Ron Wyden
Chair, Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Richard Neal
Chair, House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

The Honorable Mike Crapo
Ranking Member, Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Kevin Brady
Ranking Member, House Committee on Ways and Means
1139 Longworth House Office Building
Washington, D.C. 20515

Dear Chair Wyden, Chair Neal, Ranking Member Crapo, Ranking Member Brady, and Members of the Senate Committee on Finance and House Committee on Ways and Means:

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, I write to share NTU's top tax policy priorities for 2022, which we hope to work with you and your colleagues to address early in the new year. Though lawmakers are confronting a number of policy challenges this year, including the ongoing impacts of the COVID-19 pandemic, we hope to work with Members of both parties to address a number of policies we believe could impact economic, job, and wage growth in the U.S. for years to come.

NTU's advocates and experts have decades of experience working with Members and staff of both parties on Capitol Hill. We have been involved in every major tax reform effort in recent years, most recently the 2017 Tax Cuts and Jobs Act (TCJA) and the 2019 Taxpayer First Act (TFA). We wish to be a resource and partner to you and your colleagues in 2022 and beyond, and are at your disposal on any of the following policy priorities and more.

NTU's 2022 Tax Policy Priorities

The following list, in no particular order, summarizes NTU's tax policy priorities as the calendar turns from 2021 to 2022:

- First, do no harm: **avoid the harmful tax policy proposals** introduced across several versions of the Build Back Better (BBB) Act, which would raise taxes on U.S. workers and businesses by hundreds of billions of dollars over the next decade alone;
- Identify **fiscally responsible solutions to the Child Tax Credit (CTC) and Earned Income Tax Credit (EITC) expansion debates** that focus these credits on poverty reduction while remaining affordable to the nation's taxpayers;

- **Address expired or expiring pro-growth expensing provisions** of the code, which fuel business investments in the U.S. and its workers;
- **Avoid going alone on international tax reform**; and – if the U.S. decides to move forward with international tax reform – design policies so that they do not undermine U.S. tax competitiveness on the global stage;
- **Narrow health subsidies in the tax code to focus on low- and middle-income Americans** who most struggle with affording health coverage, and direct these subsidies toward consumer-directed products like Health Savings Accounts (HSAs);
- **Reform the Internal Revenue Service (IRS)**, and limit any IRS budget increase to enacting these reforms and ensuring additional taxpayer protections; and
- Promote the **principles and practice of free trade** by reducing tariffs and trade barriers, including but not limited to reauthorization of the Generalized System of Preferences, passage of the Miscellaneous Tariff Bill, and reauthorization of Trade Promotion Authority (TPA).

We share further details, and NTU-supported legislation, addressing each of these priorities below.

Avoiding BBB's Tax Hikes

Though the collection of tax hikes in the BBB has changed over successive editions of the massive bill, each version of BBB has been accompanied by troubling and damaging tax increases that could undermine U.S. workers and U.S. businesses at a fragile point in America's economic recovery from the COVID-19 pandemic. The Penn Wharton Budget Model (PWB) projects that the House-passed version of BBB would reduce gross domestic product (GDP) and the nation's capital stock by 0.2 percent by 2031,¹ and Tax Foundation estimates the same legislation would reduce long-run GDP by 0.5 percent and wages by 0.35 percent.²

NTU has analyzed various portions of this legislation, identifying significant problems with recent claims about the legislation from BBB proponents. For example, we found Speaker Nancy Pelosi's claim that BBB 'cuts taxes' to lack significant and important context about the temporary nature of some tax cuts and the distributional effects of BBB's tax increases across the income spectrum.³ We also found that supporters of the largest single tax increase in the House version of BBB, the corporate minimum tax, have made erroneous and flawed assumptions about how the minimum tax will affect individual U.S. companies' tax liabilities.⁴

We urge lawmakers to steer clear of the harmful tax hikes in BBB, such as corporate tax increases, tax increases on retirement savings, and tax hikes on pass-through businesses. Lawmakers should focus their efforts on long-overdue deficit and spending reductions rather than on new spending and new taxes.

¹ Huntley, Jon; Erbabian, Maddison; and Ricco, John. "H.R. 5376, Build Back Better Act: Budget and Macroeconomic Effects." Penn Wharton Budget Model, November 15, 2021. Retrieved from:

<https://budgetmodel.wharton.upenn.edu/issues/2021/11/15/hr-5376-build-back-better-budget-macro> (Accessed January 3, 2022.)

² Durante, Alex; Kallen, Cody; Li, Huaqun; McBride, William; Muresianu, Alex; York, Erica; and Watson, Garrett. "House Build Back Better Act: Details & Analysis of Tax Provisions in the Budget Reconciliation Bill." Tax Foundation, December 2, 2021. Retrieved from: <https://taxfoundation.org/build-back-better-plan-reconciliation-bill-tax/> (Accessed January 3, 2022.)

³ Lautz, Andrew. "Speaker Pelosi Says Build Back Better Cuts Taxes. Does It?" NTU, November 23, 2021. Retrieved from: <https://www.ntu.org/publications/detail/speaker-pelosi-says-build-back-better-cuts-taxes-does-it>

⁴ Lautz, Andrew. "Senator Warren's Corporate Minimum Tax Analysis Is Deeply Flawed." NTU, December 6, 2021. Retrieved from: <https://www.ntu.org/publications/detail/senator-warrens-corporate-minimum-tax-analysis-is-deeply-flawed>

Making CTC and EITC Expansion Fiscally Responsible

NTU has written extensively on the CTC and EITC, especially recent efforts in Congress to permanently or temporarily expand the CTC and EITC as poverty-fighting measures of the tax code.⁵ In our recent research and advocacy on CTC and EITC expansion efforts, NTU has emphasized a few key principles:

1. The CTC and EITC must be fiscally responsible programs in the years and decades to come, and Congress should not commit to expansions taxpayers cannot afford in the long run;
2. These programs should be narrowly tailored, focusing on low-income families who most need additional support to meet basic needs and avoiding subsidies to upper-middle class and wealthy families;
3. Policymakers should reduce overlap between these two programs and other anti-poverty efforts and complexity in these programs, especially in the EITC, that contributes to high improper payment rates.

Unfortunately, various versions of BBB's CTC and EITC expansions swing and miss on some or all of these principles. Lawmakers have not proposed how to make the expanded CTC and EITC affordable in the long run, even though the Congressional Budget Office has estimated that making these expansions permanent would cost \$1.6 trillion and \$135 billion, respectively, over the next decade alone.⁶ The expanded CTC is available to families making well into the six figures per year, wasting taxpayer dollars on subsidies for families who do not need government assistance. And no version of BBB has meaningfully addressed CTC and EITC reforms necessary to reduce overlap and complexity. We urge lawmakers to go back to the drawing board on CTC and EITC expansion, and think Sen. Mitt Romney's (R-UT) Family Security Act is a great place to start.⁷

Extending Expensing Provisions

With the end of calendar year 2021, two major business tax provisions went into effect that may have a negative impact on America's economic recovery from COVID-19. First, businesses can no longer expense (i.e., immediately and fully recover) their research and development (R&D) costs. Instead, they need to amortize (i.e., spread) R&D cost recovery out over five years. NTU has warned that this policy change, now in effect, will raise the cost for businesses to invest in R&D right here in the U.S., negatively impacting U.S. tax competitiveness.⁸ Congress should support bipartisan legislation from Sens. Maggie Hassan (D-NH) and Todd Young (R-IN), along with Reps. John Larson (D-CT) and Ron Estes (R-KS), to restore R&D expensing.⁹

Second, businesses are more limited in the tax deductions they can take for their interest expenses; specifically, businesses in 2021 were limited by a definition of earnings *before* depreciation and amortization costs are

⁵ For more, see: Lautz, Andrew. "How to Make the Child Tax Credit a True Anti-Poverty Measure, While Protecting Taxpayers." NTU, July 26, 2021. Retrieved from:

<https://www.ntu.org/publications/detail/how-to-make-the-child-tax-credit-a-true-anti-poverty-measure-while-protecting-taxpayers>;

Yepez, Will. "What's the Deal With the Earned Income Tax Credit?" NTU, October 7, 2021. Retrieved from:

<https://www.ntu.org/publications/detail/whats-the-deal-with-the-earned-income-tax-credit>

⁶ CBO. "Re: Budgetary Effects of Making Specified Policies in the Build Back Better Act Permanent." December 21, 2021. Retrieved from: <https://www.cbo.gov/system/files/2021-12/57706-BBBA-Palmer-Letter.pdf> (Accessed January 3, 2022.)

⁷ Senator Mitt Romney. "The Family Security Act." February 2021. Retrieved from:

https://www.romney.senate.gov/sites/default/files/2021-02/family%20security%20act_one%20pager.pdf (Accessed January 3, 2022.)

⁸ Lautz, Andrew; and Yepez, Will. "Not All Tax Extenders Are Created Equal - 2021." NTU, December 1, 2021. Retrieved from:

<https://www.ntu.org/publications/detail/not-all-tax-extenders-are-created-equal-2021#h.k6fnnb1s3gj8>

⁹ Lautz, Andrew; Aiello, Thomas; and Yepez, Will. "NTU's 11th Annual "No Brainers" List: Bipartisan Legislation Congress Should Pass in 2021." NTU, October 13, 2021. Retrieved from:

<https://www.ntu.org/publications/detail/ntus-11th-annual-no-brainers-list-bipartisan-legislation-congress-should-pass-in-2021>

factored in, whereas in 2022 businesses must include depreciation and amortization costs in their earnings. As NTU wrote in December 2021, “[t]his undermines the full expensing provisions of TCJA (for short-lived assets) and the ability for businesses to fully expense R&D (section 174).”¹⁰ It also raises the costs for U.S. businesses to finance investments with debt. Fortunately, legislation from Sen. Roy Blunt (R-MO) would revert to a taxable income definition of earnings *before* depreciation and amortization.¹¹ Lawmakers should pass this bill, the Permanently Preserving America’s Investment in Manufacturing Act, in short order.

Finally, the 100-percent bonus (i.e., full expensing) provisions of TCJA, which apply to short-lived assets such as machinery and equipment, begin to phase down after this year.¹² Economic studies reviewed by the Joint Committee on Taxation (JCT) have found that bonus depreciation can have ‘strong’ investment effects, especially on “small-sized firms’ investment decisions.”¹³ Tax Foundation has estimated that making the full expensing provisions of TCJA permanent would raise U.S. GDP by 0.5 percent and create 86,000 full-time equivalent jobs.¹⁴ Congress should make these provisions permanent, and should finance this change to the tax code with spending reductions elsewhere in the federal budget.

Maintaining U.S. Tax Competitiveness

As the U.S. has negotiated and agreed to a tentative international tax reform proposal advanced by the Organisation for Economic Co-operation and Development (OECD),¹⁵ NTU has warned that policymakers should tread carefully on surrendering elements of U.S. tax sovereignty to the global stage – and on going first and potentially alone when implementing the policy changes envisioned by Pillars One and Two of the OECD agreement.¹⁶ We appreciate that Congress delayed the effective dates for Global Intangible Low-Taxed Income (GILTI) changes from Jan. 1, 2022 to Jan. 1, 2023 in lawmakers’ latest version of BBB. However, many outstanding GILTI issues remain unresolved with less than one year until the scheduled global implementation of Pillar Two.¹⁷

If Congress and the Biden administration are to move forward on implementing the OECD agreement, they must insist on doing so in collaboration with the rest of the world. They should also not hesitate to withdraw from all or parts of the agreement if other countries do not hold up their end of the bargain.

¹⁰ Lautz, Andrew; and Yopez, Will. “Not All Tax Extenders Are Created Equal - 2021.” NTU, December 1, 2021. Retrieved from: <https://www.ntu.org/publications/detail/not-all-tax-extenders-are-created-equal-2021/#h.dw2kd9sk2vq5>

¹¹ *Ibid.*

¹² 26 U.S.C. §168(k)(6)(A).

¹³ See “Economic analysis of expensing and bonus depreciation”: JCT. “Tax Incentives For Domestic Manufacturing.” March 12, 2021. Retrieved from: <https://www.jct.gov/publications/2021/jcx-15-21/> (Accessed January 3, 2022.)

¹⁴ Tax Foundation. “Options for Reforming America’s Tax Code 2.0.” April 19, 2021. Retrieved from: <https://taxfoundation.org/tax-reform-options/?option=7> (Accessed January 3, 2022.)

¹⁵ OECD/G20 Base Erosion and Profit Shifting Project. “Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy.” October 8, 2021. Retrieved from: <https://www.oecd.org/tax/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-october-2021.pdf> (Accessed January 3, 2022.)

¹⁶ Lautz, Andrew. “Treasury, Congress Should Keep U.S. Businesses and Workers at Front of Global Tax Talks.” NTU, August 24, 2021. Retrieved from:

<https://www.ntu.org/publications/detail/treasury-congress-should-keep-us-businesses-and-workers-at-front-of-global-tax-talks>

¹⁷ Lautz, Andrew. “Outstanding Issues for Congress on Pillars One and Two Following October Agreement.” NTU, October 14, 2021. Retrieved from:

<https://www.ntu.org/publications/detail/outstanding-issues-for-congress-on-pillars-one-and-two-following-october-agreement>

Congress should also assert its constitutional authority over tax matters and make changes to the current international tax reform proposals in BBB.¹⁸ Such changes could better allow the U.S. to compete with our highly developed counterparts in maintaining and attracting global investment that creates jobs and opportunities here at home.

Finally, the Biden administration and Congress should insist on unilateral and unconditional repeal of countries' discriminatory digital services taxes (DSTs) as a prerequisite to implementing Pillar One of the agreement. The Treasury Department has made important progress in this regard, but important work remains to eliminate all DSTs around the world.¹⁹

Targeting the Tax Code's Health Subsidies

One of NTU's primary concerns with the health provisions in BBB is that they supercharge inefficient and expensive premium tax credits (PTCs). NTU has noted time and again that PTC expansion is ill-suited for expanding health coverage for three primary reasons:

1. Expansion is expensive to taxpayers, with a 10-year impact of potentially over \$200 billion;
2. Targeting generous PTCs to households making six figures or more is a poor use of taxpayer dollars; and
3. PTCs are not designed to bend the cost curve for private health coverage, and will only increase in cost as premium hikes outpace wage increases.²⁰

Lawmakers should instead focus their legislative efforts on expanding access to Health Savings Accounts (HSAs) further down the income ladder, allowing more low-income and middle-income families to open and contribute to an HSA. These consumer-directed accounts empower patients to choose health services that work best for themselves and their families, while also reducing out-of-pocket costs for care on a tax-free basis.

Reforming the IRS

A major tax policy discussion in 2021 concerned the IRS and its budget. Proponents of BBB have argued the IRS should receive an \$80 billion budget increase over the next 10 years, and that a majority of this funding should be spent on enforcement activities to reduce the gap between taxes owed and taxes paid, known colloquially as the 'tax gap.' Experts at NTU Foundation have pointed out that reducing the tax gap is no "trillion dollar silver bullet" to pay for new spending, despite the promises and assurances of some policymakers.²¹ NTU has also argued that any new IRS funds in pursuit of reducing the tax gap should be preconditioned on the protection of taxpayer rights and privacy, and that the IRS must enact long-overdue reforms to its information technology infrastructure and its customer service practices before it spends tens of billions of taxpayer dollars on new enforcement activities.²²

¹⁸ *Ibid.*

¹⁹ Lautz, Andrew. "The U.S.-Euro October 2021 Deal on DSTs: A Good Start, But Not Ideal for U.S. Taxpayers." NTU, October 21, 2021. Retrieved from:

<https://www.ntu.org/publications/detail/the-us-euro-october-2021-deal-on-dsts-a-good-start-but-not-ideal-for-us-taxpayers>

²⁰ Lautz, Andrew. "Beware \$200-Billion, Permanent Premium Tax Credit Expansion." NTU, March 16, 2021. Retrieved from:

<https://www.ntu.org/publications/detail/beware-200-billion-permanent-premium-tax-credit-expansion>

²¹ Wilford, Andrew; Moylan, Andrew; and Sepp, Pete. "The Tax Gap: No Trillion Dollar Silver Bullet." NTU Foundation, May 13, 2021. Retrieved from: <https://www.ntu.org/foundation/detail/the-tax-gap-no-trillion-dollar-silver-bullet>

²² Sepp, Pete; Lautz, Andrew. "14 Recommendations for Congress and the IRS as They Attempt to Narrow the Tax Gap." NTU, June 9, 2021. Retrieved from:

<https://www.ntu.org/publications/detail/14-recommendations-for-congress-and-the-irs-as-they-attempt-to-narrow-the-tax-gap>

NTU would gladly work with lawmakers to ensure that significant IRS reforms accompany any potential budget increase, large or small, and we support legislation from Ranking Members Crapo and Brady that would reform the agency and bolster taxpayer rights.²³

Promoting Free Trade

NTU and NTU Foundation have long believed that Congress should uphold and promote the principles and practice of free trade policy, and that policymakers should pursue free trade agreements that lower prices for American consumers and create opportunities for American producers and workers. Accordingly, Congress should renew Trade Promotion Authority (TPA). Further, we believe that the Biden administration should avoid imposing harmful and counterproductive tariffs, and should work to unwind Trump administration tariffs that were imposed without congressional approval.²⁴

To that end, recently introduced policy proposals such as the STOP the GRINCH Act from Sen. Mike Lee (R-UT) and Rep. Michelle Fischbach (R-MN) would help promote free trade and reduce current supply chain constraints by reducing the impact of counterproductive and protectionist laws like the Jones Act.²⁵ Reauthorizing the Generalized System of Preferences (GSP) and passing the Miscellaneous Tariff Bill (MTB) should also be priorities. In addition, we support legislation that would allow Congress to exercise its constitutional authority by allowing for a vote on tariffs proposed by the executive branch in the future. We encourage Members of the Ways and Means and Finance Committees to support proposals like these and others that will reduce rather than impose trade barriers on U.S. consumers and businesses.

Should you have any questions or feedback regarding NTU's tax policy priorities, we are at your service. We look forward to working with you to enact pro-taxpayer, pro-consumer policies in 2022 and beyond.

Sincerely,

Andrew Lautz
Director of Federal Policy

CC: Members of the Senate Committee on Finance
Members of the House Committee on Ways and Means

²³ Sepp, Pete; Lautz, Andrew. "NTU Endorses Brady, Crapo Legislation to Reform IRS and Protect Taxpayer Rights." NTU, September 13, 2021. Retrieved from:

<https://www.ntu.org/publications/detail/ntu-endorses-brady-crapo-legislation-to-reform-irs-and-protect-taxpayer-rights>

²⁴ Riley, Bryan. "Biden's Tariff 'Trial Balloon' Should Be Popped." NTU Foundation, September 14, 2021. Retrieved from:

<https://www.ntu.org/foundation/detail/bidens-tariff-trial-balloon-should-be-popped>

²⁵ U.S. Congresswoman Michelle Fischbach. "Rep. Fischbach introduced STOP the GRINCH Act." November 19, 2021. Retrieved from: <https://fischbach.house.gov/press-releases?ID=F89225B0-6A63-4550-B37A-01900AC28305> (Accessed January 3, 2022.)