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Two Years Later: The Impact of the 2017 Tax Law on Women & Families

The Tax Cuts and Jobs Act of 2017 has exacerbated economic inequality,[1] to the detriment of women and people of color. Indeed, the 2017 tax law delivered the bulk of its benefits to high-income, high-wealth individuals and households, and big corporations. Few working families have seen the promised benefits from the tax law, although CEOs and shareholders have seen windfalls from stock buybacks and shareholder payouts. To add insult to injury, the administration has proposed cuts to public programs that support women and families on the grounds that increased deficits – caused in no small part by the 2017 tax law – require reduced spending. Nearly two years after its enactment, it is clear that with the 2017 tax law, policymakers failed to further the tax code's potential to increase equity.[2]

This is the wrong direction for our nation. Going forward, policymakers should re-orient tax policy to support women, people of color, and low- and moderate-income families. In so doing, policymakers can advance gender, racial, and economic equity, and foster an economy that works for all of us.

The 2017 tax law overwhelmingly benefits the wealthy at the expense of women, people of color, and low- and moderate-income families. The 2017 tax law contains numerous provisions that are designed to benefit the rich, including lowering the top income tax rates, slashing taxes on wealthy estates, and allowing tax-sheltered funds to be used to pay for private school tuition.

Two years after its enactment, it is clear that the 2017 tax law will continue to exacerbate inequality. In 2020, it is estimated that over half of the tax law's benefits will go to the top 5% of taxpayers.[3] By 2027, approximately 83 percent of the law's benefits will go to the richest 1 percent of households.[4]

People of color and women supporting families on their own are underrepresented among the higher-income households estimated to most benefit from the 2017 tax law, and overrepresented in the lower-income households receiving little or no benefit from the law.[5] This is because historical discrimination and structural inequality have contributed to large and persistent wage and wealth gaps between white men and women and people of color.[6] Indeed, the 2017 tax law reinforces and exacerbates those gaps[7] – and thus, gender, racial, and economic inequality.

The 2017 tax law delivered substantial tax benefits to corporations, but women, people of color, and workers have not shared in those benefits. The 2017 tax law provided significant tax savings to corporations, including by reducing the corporate tax rate from 35 percent to 21 percent.[8] Although the Trump administration and congressional champions of the law asserted that these corporate tax cuts would end up boosting worker pay,[9] neither pay increases nor new corporate investments have materialized in the two years since the law was enacted. Companies in the S&P 500 made record stock buybacks,[10] collectively paying $1 trillion to executives, boards of directors, and shareholders, rather than meaningfully or permanently increasing worker compensation.[11]

In addition, the 2017 tax law created a new 20 percent deduction for certain "pass through" income for partnerships, small businesses, and others.[12] This "pass through deduction" is heavily tilted toward the wealthy.[13] Experts have also noted that women-owned small businesses are unlikely to benefit from this deduction.[14] Moreover, the deduction creates incentives for employers to hire independent contractors in lieu of employees (or misclassify employees as contractors),[15] which could weaken legal protections for such workers, including protections against workplace race or gender discrimination and harassment.

The 2017 tax law's changes to the Child Tax Credit leave out the families who need the most help. The 2017 tax law doubled the Child Tax Credit (CTC) and made families with six-figure incomes eligible to claim the CTC for the first time. But even though it doubled the CTC from $1,000 to $2,000, this expansion provided little, if any, benefit to the lowest income families because the refundable portion is limited to $1,400 and such families need $2,500 in earned income to receive a refund.

About 29 million children under age 17 with at least one working parent will not receive the full CTC increase, because their families either have too little income or owe too little in taxes.[16] Researchers at Columbia University's Center on Poverty and Social Policy (CPSP) have found that among Black children and Latinx children, around *half* will receive less than the full credit -- compared to 23 percent of white children.[17]

In addition, the new tax law adds a new requirement – providing a Social Security Number for each child claimed for the CTC – which will deny the credit to an estimated 1 million children in immigrant families that pay taxes.[18] These children, overwhelmingly, are "Dreamers" who were brought to this country by their parents,[19] many of whom are Latinx.[20]

Lawmakers failed to enact tax policies that could have made a real difference to women and their families. In addition to adding $1.9 trillion to the deficit to give lopsided tax cuts to the wealthiest households, policymakers neglected to take real steps to boost the incomes of millions of hard-working individuals above the poverty line by improving the Earned Income Tax Credit for workers who do not claim dependent children[21] or to provide meaningful tax assistance to help struggling families with their child care expenses by improving the Child and Dependent Care Tax Credit (CDCTC).[22] Indeed, the 2017 tax law adjusts the EITC for inflation more slowly than under current law.[23] And it has been estimated that fewer families will benefit from the CDCTC after the passage of the 2017 tax law.[24]

Other provisions of the 2017 tax law will detrimentally impact working women and families with children. The 2017 tax law gutted the penalty for not complying with the ACA's requirement that most people enroll in qualifying health insurance coverage. Estimates from the Congressional Budget Office (CBO) show that this would increase the number of uninsured by 13 million over 10 years and raise insurance premiums in the individual markets by 10 percent.[25] The law also provides a lower cost of living adjustment each year on average than under current law, including for the EITC, resulting in a "slowly growing tax increase over time."[26] While the 2017 tax law increased the standard deduction, moreover, it eliminated personal and dependent exemptions (valued at $4,150 for the taxpayer and each dependent), which increases the tax burden on families with more children.

Over time, millions of families will see their taxes go up under the 2017 tax law. One nonpartisan think tank estimates that by 2027, almost 100 million households will pay more in taxes.[27] If spending cuts or tax increases used to offset the cost of the 2017 tax law are taken into account, the estimate is even higher.[28]

Since the enactment of the 2017 tax law, the Trump Administration and Congressional Republicans have argued that deficits exacerbated by this law require draconian budget and benefit cuts that hurt all of us. The 2017 tax law is estimated to increase the deficit by approximately $1.9 trillion over ten years.[29] Yet before the bill was even voted on, congressional Republicans argued for cuts to Social Security, Medicare, and Medicaid to pay for it.[30] And in every budget proposal since the law was enacted, the Trump administration has sought to slash funding for rental assistance, nutrition assistance, and educational programs that support women and families. For example, NWLC analysis of the White House's Fiscal Year 2020 budget proposal found that the first year of budget outlays included $62 billion in cuts to major programs disproportionately serving women and families.[31]

It's time to take the tax code in a new direction. After two years, the evidence is indisputable: the 2017 tax law delivered significant benefits to high-income, high-wealth households and big corporations, while leaving out women, people of color, and working families. And the exorbitant cost of the tax law has manifested both in the form of reduced revenues, and in the form of proposed cuts to programs and services that help women and families meet basic living standards. In short, the 2017 tax law has exacerbated racial, gender, and economic inequality.

But to the extent policy helped to create these disparities, future tax policies have the potential to reduce them. Policymakers should abandon the failed policies that the 2017 tax law exemplifies, and move towards a tax code that serves as a tool for increasing equity.

- First, lawmakers should ensure the wealthy pay their fair share, which would also ensure sufficient revenues to fund our shared priorities.

- Second, lawmakers should make the tax code better support workers, enable savings and wealth-building by low- and moderate-income families, and incentivize employers to provide quality jobs for workers.

- Third, lawmakers should improve tax benefits that help families with low incomes make ends meet.

It's time for policymakers to ensure that the tax code advances gender, racial, and economic equity and furthers an economy that works for all of us.

1 *See, e.g.*, Christian Weller, *The 2017 Tax Law Didn't Work, the Data Prove It*, Forbes (May 30, 2019), https://www.forbes.com/sites/christianweller/2019/05/30/the-2017-tax-cuts-didnt-work-the-data-prove-it/#67d9451a58c1; William G. Gale et al., Tax Pol'y Ctr., *Effects of the Tax Cuts and Jobs Act: A Preliminary Analysis* 14 (2018), https://www.brookings.edu/wp-content/uploads/2018/06/ES_20180608_tcja_summary_paper_final.pdf.

2 *See, e.g.*, Nat'l Women's Law Ctr., *Tax Justice Is Gender Justice: Advancing Gender and Racial Equity by Harnessing the Power of the U.S. Tax Code* (2019), https://nwlc.org/resources/gender-and-the-tax-code/.

3 Inst. for Tax'n and Econ. Pol'y, *TCJA By the Numbers: 2020* (2019), https://itep.org/tcja-2020/.

4 Gale et al., *supra* note 1, at 14.

5 *See, e.g.*, Nat'l Women's Law Ctr., *The Republican Tax Plan: What's at Stake for Women and Families 1-3* (2017), https://nwlc.org/resources/the-republican-tax-plan-whats-at-stake-for-women-and-families/; Darrick Hamilton & Michael Linden, Roosevelt Inst., *Hidden Rules of Race Are Embedded in the New Tax Law* 1 (2018), https://rooseveltinstitute.org/wp-content/uploads/2018/05/Hidden-Rules-of-Race-and-Trump-Tax-Law.pdf ("The richest Americans are the disproportionate beneficiaries of the Trump tax law, and the richest Americans are also disproportionately white"); Chye-Ching Huang & Roderick Taylor, Ctr. on Budget & Pol'y Priorities, *How the Federal Tax Code Can Better Advance Racial Equity* 19 (2019), https://www.cbpp.org/research/federal-tax/how-the-federal-tax-code-can-better-advance-racial-equity; Inst. for Tax'n and Econ. Pol'y, supra note 3 (Tax Cuts and Jobs Act, Distribution of Benefits by Race 2020).

6 *See generally* Nat'l Women's Law Ctr., *The Wage Gap: The Who, How, Why, and What to Do* (2019), https://nwlc.org/resources/the-wage-gap-the-who-how-why-and-what-to-do/; Amy Traub et al., Inst. for Assets & Soc. Pol'y & Demos, *The Racial Wealth Gap: Why Policy Matters* 1 (2016), https://www.demos.org/research/racial-wealth-gap-why-policy-matters; Heather McCulloch, *Closing the Women's Wealth Gap, Closing the Women's Wealth Gap: What It Is, Why It Matters, and What Can Be Done About It* 5 (2017), https://womenswealthgap.org/wp-content/uploads/2017/06/Closing-the-Womens-Wealth-Gap-Report-Jan2017.pdf; Dedrick Asante-Muhammad et al., Prosperity Now & Inst. For Pol'y Studies, *The Road to Zero Wealth: How the Racial Wealth Divide is Hollowing Out America's Middle Class* 7 (2017), https://prosperitynow.org/sites/default/files/PDFs/road_to_zero_wealth.pdf; Angela Hanks, Danyelle Solomon & Christian Weller, Ctr. For Am. Progress, *Systematic Inequality: How America's Structural Racism Helped Create the Black-White Wealth Gap* (2018), https://www.americanprogress.org/issues/race/reports/2018/02/21/447051/systematic-inequality/.

7 *See, e.g.*, Hamilton & Linden, *supra* note 5; Meg Wiehe et al., Inst. For Tax'n and Econ. Pol'y & Prosperity Now, *Race, Wealth & Taxes: How the Tax Cuts and Jobs Act Supercharges the Racial Wealth Divide* (2018), https://prosperitynow.org/sites/default/files/resources/ITEP-Prosperity_Now-Race_Wealth_and_Taxes-FULL%20REPORT-FINAL_4.pdf; Huang & Taylor, *supra* note 5.

8 For a full description of the changes to taxes for corporations from the Tax Cuts and Jobs Act, see Tax Pol'y Ctr., *How did the Tax Cuts and Jobs Act change business taxes?* https://www.taxpolicycenter.org/briefing-book/how-did-tax-cuts-and-jobs-act-change-business-taxes (last accessed Sept. 30, 2019).

9 For good summaries of these arguments, *see* Andrew Schwartz & Galen Hendricks, Ctr. for Am. Progress *One Year Later, the TCJA Fails to Live Up to Its Proponents' Promises* (2018), https://www.americanprogress.org/issues/economy/reports/2018/12/20/464534/one-year-later-tcja-fails-live-proponents-promises/.

10 *See, e.g.*, Press Release, S7P Dow Jones Indices, S&P 500 Q4 2018 Buybacks Set 4th Consecutive Quarterly Record at $223 Billion; 2018 Sets Record $806 Billion (Mar. 25, 2019), http://press.spglobal.com/2019-03-25-S-P-500-Q4-2018-Buybacks-Set-4th-Consecutive-Quarterly-Record-at-223-Billion-2018-Sets-Record-806-Billion.

11 *See, e.g.*, Katy Milani et al., Roosevelt Inst. & Nat'l Women's Law Ctr., *Reckoning with the Hidden Rules of Gender in the Tax Code: How Low Taxes on the Wealthy and Corporations Impact Women's Economic Opportunity and Security* 12 (2019), https://nwlc.org/resources/reckoning-with-the-hidden-rules-of-gender-in-the-tax-code-how-low-taxes-on-corporations-and-the-wealthy-impact-womens-economic-opportunity-and-security/.

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13 *See* Ctr. on Budget & Pol'y Priorities, *2017 Tax Law's Pass-Through Deduction Heavily Titled Towards the Wealthy*, https://www.cbpp.org/2017-tax-laws-pass-through-deduction-heavily-tilted-toward-wealthy (last visited Oct. 1, 2019).

14 *See* Hearing before the U.S. House of Representatives Committee on the Budget: 2017 Tax Law – Impact on the Budget and American Families, Testimony of Professor Caroline Bruckner, Kogod Tax Policy Center, Kogod School of Business, American University (March 29, 2019), *available at* https://docs.house.gov/meetings/BU/BU00/20190227/108985/HHRG-116-BU00-Wstate-BrucknerC-20190227-U1.pdf.

15 *See* Brendan Duke, Ctr. on Budget & Pol'y Priorities, *Pass-Through Deduction in 2017 Tax Law Could Weaken Wages and Workplace Standards* (2018), https://www.cbpp.org/research/federal-tax/pass-through-deduction-in-2017-tax-law-could-weaken-wages-and-workplace.

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