NATIONAL WOMEN'S LAW CENTER
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November 17, 2023

Chairman Ron Wyden
Senate Committee on Finance
Rm. SD-219
Dirksen Senate Office Bldg.
Washington, DC 20510-6200

Ranking Member Mike Crapo
Senate Committee on Finance
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NWLC Written Statement for U.S. Senate, Committee on Finance Hearing *Examining How the Tax Code Affects High-Income Individuals and Tax Planning Strategies*, November 9, 2023

Dear Chairman Wyden and Ranking Member Crapo,

The National Women's Law Center ("the Center") commends the Committee for holding this important hearing on the ways the tax code allows the very wealthy to pay less than their fair share of taxes and submits this statement for the record to highlight the ways this unfairness exacerbates gender and racial inequity. Policy changes that would correct the weaknesses in taxation of the wealthy identified by the witnesses at the hearing would both address the gender and racial wealth gap and provide significant revenue that could be invested to help women and families thrive.

I. <u>The gender and racial wealth gap measures inequity in economic security for women and women of color, driven by systemic discrimination</u>

According to data collected in the 2019 Survey of Consumer Finances, for every one dollar of wealth owned by a single white man, single Black women and Latinas own approximately nine cents.[i] Calculated at the median, in 2019, single white men owned $92,300 in wealth, single Black women owned $8,200, and single Latinas owned $7,900.[ii] Historic and ongoing systemic discrimination drives these disparities. Women, particularly women of color, continue to be underpaid for their work.[iii] Women are also overrepresented in the low-paid workforce, making up nearly two-thirds of those in the 40 lowest-paying jobs.[iv] Because of a lack of systemic investment in child care, paid family and medical leave, and care for aging and disabled people, women also disproportionately undertake unpaid caregiving responsibilities in the home and predominate in the underpaid child care workforce.[v] Women therefore are less likely to have spare income to set aside in wealth building opportunities such as 401(k) accounts,[vi] if they even work in jobs that offer such benefits. Many other factors such as barriers to homeownership,[vii] workplace harassment,[viii] discrimination in education[ix] and more drive wealth disparities. Rather than working to ameliorate such barriers, the tax code instead further entrenches and compounds them.

II. Specific aspects of the tax code lock in wealth disparities, thereby exacerbating rather than mitigating gender and racial inequities

The testimony at the hearing laid out ways the tax code preferences income from wealth compared to income from work, allowing it to be taxed at lower rates or to sometimes go untaxed altogether. Taken together, these preferences for wealth mean those who are already wealthy are positioned to maintain and grow their wealth, locking in wealth disparities by gender and race. Further, specific preferences disproportionately benefit men and white households.

For example, families of color and women are less likely to benefit from tax preferences for capital gains. Taxation of capital gains at a lower rate than wage income disproportionately benefits white households, who are more likely to own investments. One analysis found that while white households comprise 65% of all households, they own almost 90% of corporate stock and private business.[x] Moreover, women are less likely to hold highly-paid jobs that offer investment-based compensation[xi] and when surveyed, women have also reported being less likely to invest in the stock market than men.[xii]

When wealth is passed down to the next generation, these and other tax preferences further compound largely to the benefit of white households. As detailed in testimony, the step-up in basis wipes out capital gains for tax purposes, and weaknesses in the estate tax do not allow it to serve as an effective backstop. The number of estates subject to the estate tax has plummeted to less than 2,000 per year, or less than one-tenth of one percent of all estates (0.07%), due to continuing increases in the exemption amount, most recently in the 2017 tax law.[xiii] Well-known loopholes such as the use of trusts further limit the reach of the estate tax.[xiv] As economist Janelle Jones notes, "White families are twice as likely to receive an inheritance as Black families, and that inheritance is nearly three times as much."[xv] Black families are also more likely to have to support parents and older relatives rather than receiving financial support or inheriting wealth from them.[xvi] Thus, households of color are generally locked out of tax preferences for inherited wealth.[xvii]

Testimony also highlighted the ways the very wealthy are able to fund extravagant lifestyles while structuring their portfolios to avoid taxation (known as "buy, borrow, die"), making taxation at certain levels of wealth essentially optional.[xviii] Because wealth itself is outside the tax system, which only reaches gains on wealth, these large fortunes are considered outside the tax base.[xix] This generally inures to the benefit of families that are wealthy and white. Because women supporting families on their own and households of color are underrepresented in higher income brackets, it is unsurprising that they are underrepresented among the very wealthiest. One measure of the gender and racial makeup of those at the very top can be seen in the Forbes 400 list, which as of 2021 counted only two Black men and no Black women.[xx] Even Black families in the top 10% by income have much less wealth than white families at the same income level: median net worth for white families at this income level is $1,789,300 while only $343,160 for Black families.[xxi]

Wealthy and white families benefit not only from these, and multiple other preferences in the tax code, but also from underfunded enforcement. Deep cuts to the IRS budget have allowed audit rates to fall dramatically, limiting enforcement on wealthy filers.[xxii] This underfunding subsidized people who do not follow the law, such as the 1.4 million wealthy people who did not file a tax return at all between 2017 and 2020.[xxiii] Wealthy people can avoid, or even evade, paying what they owe when the IRS is overmatched by the tax lawyers and accountants they employ.[xxiv] While audit rates at the top have plummeted, low-income filers who claim the Earned Income Tax Credit are as likely to be audited as families making up to a million dollars a year in income.[xxv] Women supporting families on their own and households of color are underrepresented among high-income taxpayers who evade taxes, but they are overrepresented in the lower-income brackets.[xxvi] It is no surprise that those at the top have seen their wealth grow, depriving the government and ordinary citizens of needed revenue and further fueling wealth disparities.[xxvii]

III. Tax preferences for wealth deprive us of revenue for needed investments in women and families, which themselves would help women thrive, shrink the wealth gap, and grow the economy

Correcting the tax preferences for wealth outlined above would yield significant federal revenue, which could be used to invest in women and families.[xxviii] Allowing the preferences for wealth to continue instead drives increases in federal deficits, constraining the fiscal space for investments. At the minimum, tax cuts passed in 2017 in the Tax Cuts and Jobs Act that benefited the wealthiest households should not be extended.[xxix] These tax cuts have contributed significantly to the federal revenue shortfall, growing the debt-to-GDP ratio of primary concern to many lawmakers.[xxx]

Additional changes to the tax code are needed, however, to further progressivity and support robust public investments that are long overdue. For example, raising the capital gains rate to match the top rate for labor income and closing the stepped-up basis loophole (the primary driver of the "buy, borrow, die" strategy), is estimated to raise $214 billion over ten years.[xxxi] Similarly, Chairman Wyden's proposed Billionaire's Income Tax, a tax on income from wealth as it is earned (and used to buy real assets in the economy while not being taxed) could yield $557 billion in federal revenue.[xxxii] An annual tax on wealth itself is estimated to raise $1.9 - $3.3 trillion over ten years.[xxxiii] Strengthening the estate tax could raise up to $430 billion over ten years,[xxxiv] and even modest reforms, to return to 2009 levels, are estimated to yield $189 billion.[xxxv]

Finally, fully funding IRS enforcement for wealthy filers would drive a tremendous return on investment. Recent research found that every dollar invested in high-income audits translated to more than $12 in revenue,[xxxvi] and it is estimated that implementing the Inflation Reduction Act's $80 billion in IRS funding would lead to at least $480 billion in additional taxes collected over 10 years.[xxxvii] This funding is already working: As of October 2023, the Internal Revenue Service has collected $160 million in back taxes in 2023 by enforcing against millionaires who haven't paid what they owe.[xxxviii] Recent recissions to this funding should be undone, and additional stable funding is needed.[xxxix]

The revenue from more equitably taxing the wealthy and ensuring they pay what they owe could be used for investments that support the health and well-being of women and families, and enable women and people of color to succeed in our economy. In addition to investments in the care economy described above, additional revenues could support robust public investments in policies such as the expanded Child Tax Credit, which raised millions out of poverty in 2021, including 1 million Black women, Latinas, and Asian women,[xl] other refundable tax credits for women and families, and affordable and accessible housing. The path to an economy that works for everyone includes raising revenue in a progressive manner. It requires rejecting tax preferences for billionaires and advancing policies that invest in women, families and all of us.

The Center appreciates the opportunity to submit this written statement for the record. Should you have any questions, please do not hesitate to contact Amy Royce, Senior Counsel, at aroyce@nwlc.org.

[i] Mariko Chang, Ana Hernández Kent, and Heather McCulloch, "Understanding the Gender Wealth Gap, and Why it Matters," in The Future of Building Wealth: Brief Essays on the Best Ideas to Build Wealth – For Everyone, ed. Ray Boshara and Ida Rademacher. (Aspen Institute, 2021) 53-59, https://live-future-of-building-wealth.pantheonsite.io/wp-content/uploads/2021/09/Sec1-Ch5-Chang-Kent-McCulloch.pdf.

[ii] *Id*. at 57.

[iii] Brooke LePage and Jasmine Tucker, National Women's Law Center, "A Window Into the Wage Gap: What's Behind It and How to Close It" (January 2023), https://nwlc.org/wp-content/uploads/2023/01/2022-Wage-Gap-Factsheet-1.10.23v2.pdf.

[iv] Jasmine Tucker and Julie Vogtman, National Women's Law Center, "When Hard Work is Not Enough: Women in Low-Paid Jobs" (April 2020), https://nwlc.org/wp-content/uploads/2020/04/Women-in-Low-Paid-Jobs-report_pp04-FINAL4.2.pdf.

[v] Amy Royce and Amy Matsui, "Unsupported: Underinvestment in the Care Economy Drives Gender and Racial Wealth Gaps," Human Rights, January 6, 2023, https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/wealth-disparities-in-civil-rights/unsupported/; Josephine Kalipeni and Julie Kashen, "Building Our Care Infrastructure for Equity, Economic Recovery and Beyond" (September 2020), https://caringacross.org/carepaper/; National Women's Law Center, "Early Educators' Wage Growth Lagged Behind Other Low-Paid Occupations, Jeopardizing the Supply of Child Care as Relief Dollars Expire" (July 2023), https://nwlc.org/wp-content/uploads/2023/07/ChildCareDollarsFS.pdf.

[vi] Robert Paul Hartley, Ajay Chaudry, Melissa Boteach, Estelle Mitchell, and Kathryn Menefee, National Women's Law Center, Center on Poverty & Social Policy, "A Lifetime's Worth of Benefits: The Effects of Affordable, High-quality Child Care on Family Income, the Gender Earnings Gap, and Women's Retirement Security" (March 2021), https://nwlc.org/wp-content/uploads/2021/04/A-Lifetimes-Worth-of-Benefits-Compliant.pdf.

[vii] Sarah Javaid and Talia Grossman, "Homeownership—A Pathway to Wealth Building—Is Still Out Of Reach For Many Women of Color" (November 2023), https://nwlc.org/wp-content/uploads/2023/11/2023_NWLC_Homeowner_Brief_Accessible.pdf.

[viii] National Women's Law Center, "Comment on Proposed Enforcement Guidance on Harassment in the Workplace Docket Number EEOC-2023-0005" (November 2023), https://nwlc.org/wp-content/uploads/2023/11/NWLC-Comment-on-EEOC-Proposed-Enforcement-Guidance-on-Workplace-Harassment.pdf.

[ix] National Coalition on Women and Girls in Education, "Title IX at 50" (June 2022), https://nwlc.org/wp-content/uploads/2022/06/NCWGE-Title-IX-At-50-6.2.22-vF.pdf.

[x] Joe Hughes and Emma Sifre, Institution on Taxation and Economic Policy, "Investment Income and Racial Inequality" (October 2021), https://itep.org/investment-income-and-racial-inequality/.

[xi] Alisha Haridasani Gupta, "Surprise: Women and Minorities are Underrepresented in Corporate Board Rooms," New York Times, October 12, 2021, https://www.nytimes.com/2021/06/07/us/women-minorities-underrepresented-corporate-boardrooms.html.

[xii] Erin El Issa, "Survey: Less Than Half of Women in U.S. Invest in the Stock Market," Nerdwallet, September 1, 2021, https://www.nerdwallet.com/article/investing/survey-less-than-half-of-women-in-u-s-invest-in-the-stock-market.

[xiii] Tax Policy Center, "Briefing Book: How many people pay the estate tax?" (May 2020), https://www.taxpolicycenter.org/briefing-book/how-many-people-pay-estate-tax.

[xiv] Bob Lord, Americans for Tax Fairness, "Dynasty Trusts: Giant Tax Loopholes that Supercharge Wealth Accumulation" (February 2022), https://americansfortaxfairness.org/wp-content/uploads/DT-PRINT-2.2.pdf.

[xv] Janelle Jones, Economic Policy Institute, "Receiving an Inheritance Helps White Families More than Black Families," February 17, 2017, https://www.epi.org/publication/receiving-an-inheritance-helps-white-families-more-than-black-families/.

[xvi] Dorothy A. Brown, *The Whiteness of Wealth* (New York: Crown, 2021), 182-185.

[xvii] Dorothy A. Brown, "Congress is passing up a chance to close a tax loophole — and the racial wealth gap," Washington Post, September 16, 2021, https://www.washingtonpost.com/outlook/2021/09/16/stepped-up-basis-race/.

[xviii] Steve Wamhoff, Institution on Taxation and Economic Policy, "Billionaires Should Pay Taxes on Their Income Every Year Like the Rest of Us" (September 2022), https://itep.org/billionaires-should-pay-taxes-on-their-income-every-year-like-the-rest-of-us/.
[xix] Lily Batchelder and David Kamin, "Taxing the Rich: Issues and Options" (September 11, 2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3452274.
[xx] Nigel Roberts, "Only Two Black People Made Forbes List Of The 400 Richest Americans," BET, October 14, 2021, https://www.bet.com/article/e8q6yp/only-two-black-people-on-forbes-richest-americans-list.
[xxi] Kriston McIntosh, Emily Moss, Ryan Nunn, and Jay Shambaugh, Brookings, "Examining the Black-white Wealth Gap," (February 27, 2020), https://www.brookings.edu/blog/up-front/2020/02/27/examining-the-black-white-wealth-gap/.
[xxii] Jeff Ernsthausen, "IRS Strategic Plan Vows to Amp Up Audits of the Rich," ProPublica, April 7, 2023, https://www.propublica.org/article/irs-strategic-plan-wealth-tax-dodgers; U.S. Government Accountability Office, "Tax Compliance: Trends of IRS Audit Rates and Results for Individual Taxpayers by Income" (May 17, 2022), https://www.gao.gov/products/gao-22-104960.
[xxiii] Senator Ron Wyden, Chairman, Senate Committee on Finance, Letter to Commissioner Danny Werfel, Internal Revenue Service, September 28, 2023, https://www.washingtonpost.com/documents/df4c32e7-1c29-438d-8395-180649f44f07.pdf?itid=lk_inline_manual_5.
[xxiv] Natasha Sarin, U.S. Department of the Treasury, "The Case for a Robust Attack on the Tax Gap" (September 7, 2021), https://home.treasury.gov/news/featured-stories/the-case-for-a-robust-attack-on-the-tax-gap.
[xxv] Paul Kiel and Jesse Eisinger, "Who's More Likely to Be Audited: A Person Making $20,000 — or $400,000?," ProPublica, December 12, 2018, https://www.propublica.org/article/earned-income-tax-credit-irs-audit-working-poor.
[xxvi] Married couples are over 4 times more likely than male-headed households and nearly 1.8 times more likely than female-headed households to have income in the top quintile. United States Census Bureau, "2021 Current Population Survey Household Income Table: HINC-05, Percent Distribution of Households, by Selected Characteristics Within Income Quintile and Top 5 Percent in 2020" (2021), https://www.census.gov/data/Tables/2021/demo/cps/hinc-05.html. In 2019, white-headed households were disproportionately in higher income quintiles (while Black- and Latinx - headed households were disproportionately in the lower income quintiles). Congressional Research Service, "The U.S. Income Distribution: Trends and Issues" (updated January 13, 2021), https://sgp.fas.org/crs/misc/R44705.pdf.
[xxvii] Oxfam International, "Inequality and Poverty: The Hidden Costs of Tax Dodging, https://www.oxfam.org/en/inequality-and-poverty-hidden-costs-tax-dodging.
[xxviii] Amy Royce and Amy Matsui, National Women's Law Center, "Taxing the Rich Will Make the Tax Code More Equitable and Support Investments in Women and Families," (April 2023), https://nwlc.org/wp-content/uploads/2023/03/UPDATED-APRIL-2023_nwlc_RevenueRaisers.pdf.
[xxix] William G. Gale, Brookings, "A fixable mistake: The Tax Cuts and Jobs Act" (September 25, 2019), https://www.brookings.edu/articles/a-fixable-mistake-the-tax-cuts-and-jobs-act/
[xxx] Bobby Kogan, Center for American Progress, "Tax Cuts Are Primarily Responsible for the Increasing Debt Ratio" (March 27, 2023), https://www.americanprogress.org/article/tax-cuts-are-primarily-responsible-for-the-increasing-debt-ratio/.
[xxxi] "General Explanations of the Administration's Fiscal Year 2024 Revenue Proposals" (U.S. Department of the Treasury, March 2023), https://home.treasury.gov/system/files/131/General-Explanations-FY2024.pdf, p. 214.
[xxxii] U.S. Senate Committee on Finance, "Wyden Statement on Billionaires Income Tax Score," November 5, 2021, https://www.finance.senate.gov/chairmans-news/wyden-statement-on-billionaires-income-tax-score.
[xxxiii] Batchelder and Kamin, "Taxing the Rich: Issues and Options," p. 33.
[xxxiv] "Revenue estimate of the 'For the 99.5 Percent Act,'" (Joint Committee on Taxation, March 24, 2021), https://www.sanders.senate.gov/wp-content/uploads/For-the-99.5-Act-JCT-Score.pdf.
[xxxv] "Recent Changes in the Estate and Gift Tax Provisions" (Congressional Research Service, October 19, 2021) https://sgp.fas.org/crs/misc/R42959.pdf, p. 7.

[xxxvi] Will Boning, Nathaniel Hendren, Ben Sprung-Keyser, and Ellen Stuart, "A Welfare Analysis of Tax Audits Across the Income Distribution," Policy Impacts (June 14, 2023) https://policyimpacts.org/research/67/a-welfare-analysis-of-tax-audits-across-the-income-distribution.

[xxxvii] Natasha Sarin and Mark J. Mazur, "The Inflation Reduction Act's Impact on Tax Compliance—and Fiscal Sustainability" (May 21, 2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4449161.

[xxxviii] Internal Revenue Service, "IRS launches new initiatives using Inflation Reduction Act funding to ensure large corporations pay taxes owed; continues to improve service and modernize technology with launch of business tax account" (October 20, 2023), https://www.irs.gov/newsroom/irs-launches-new-initiatives-using-inflation-reduction-act-funding-to-ensure-large-corporations-pay-taxes-owed-continues-to-improve-service-and-modernize-technology-with-launch-of-business-tax-account.

[xxxix] Chuck Marr, Samantha Jacoby, and Jabari Cook, Center on Budget and Policy Priorities, "Success of the IRS Rebuilding and Tax Gap Reduction Effort Depends on Sufficient Funding Through Annual Appropriations" (December 7, 2022), https://www.cbpp.org/sites/default/files/12-1-22tax.pdf; Kimberly A. Clausing and Natasha Sarin, "The coming fiscal cliff: A blueprint for tax reform in 2025," The Hamilton Project and Brookings (September 2023), https://www.brookings.edu/wp-content/uploads/2023/09/20230927_THP_SarinClausing_FullPaper_Tax.pdf.

[xl] Sarah Hassmer, Amy Matsui, Kat Menefee, and Shengwei Sun, "By the Numbers: Data on Key Programs for the Well-Being of Women & Their Families" (May 2023), https://nwlc.org/resource/by-the-numbers-data-on-key-programs-for-the-well-being-of-women-lgbtq-people-and-their-families/.