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Chairman Jason Smith
Committee on Ways and Means
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Ranking Member Richard Neal
Committee on Ways and Means
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NWLC Written Statement for U.S. House of Representatives, Committee on Ways and Means, *Hearing on Expanding on the Success of the 2017 Tax Relief to Help Hardworking Americans*, April 11, 2024

Dear Chairman Smith and Ranking Member Neal,

The National Women's Law Center (NWLC) appreciates the opportunity to submit this written statement for the record.

The coming expiration of many provisions of the 2017 tax law (also known as the Tax Cuts and Jobs Act, or TCJA) represents a watershed moment in tax policy. Congress faces a critical decision: will we double down on the failed policies of "trickle down" economics, or make progress towards a tax code that works for all of us, not just those at the top? Like previous tax cuts that overwhelmingly benefitted the wealthiest, the 2017 tax law exacerbated inequality and left women and families behind, while constraining investments that allow communities to thrive. Now more than ever, we need big public investments in child care, paid family and medical leave, aging and disability care, affordable and accessible housing, health care and more, to ensure that all of us can succeed in this economy. The ability to make those investments will be deeply impacted by the course Congress charts as provisions of the TCJA expire. Not only should Congress let the temporary provisions of the TCJA that benefit the wealthiest expire, but it should go further and enact additional tax changes to make sure the wealthy and big corporations are paying their fair share.

<u>The TCJA continued the failed strategy of tax cuts at the top</u>

The purpose of the tax code is to raise revenues so the government can fund priorities we all rely on. Decades of tax cuts at the top, however, have diminished federal capacity to invest in women, families, and communities. Despite familiar promises, tax cuts at the top do not "trickle down" to benefit average Americans, instead working to exacerbate wealth and income inequality, drive gender and racial wealth gaps, and drive increasing debt levels.

The TCJA exemplifies this failed strategy. The 2017 tax cuts were overwhelmingly skewed to high-income taxpayers and wealthy corporations.[i] The law overall was regressive: it gave larger tax reductions both in dollar amounts and as a percentage of income to high-income households compared to low-income households.[ii] At the time of passage, analysis strongly indicated that this would be the case, and indeed, in the first year it was in effect, "[t]he wealthiest 5 percent of households received nearly half—42.6 percent—of the Trump tax cuts, with the top 0.1 percent receiving an average tax cut of $193,380 in 2018."[iii] In the six years since the law's enactment, the overwhelming share of its benefits has continued to go to the top,[iv] as laid out in Dr. Kathryn Edwards' testimony. In 2025, the top 1% will see an average tax cut of over $61,000, while the lowest income quintile will see an average tax cut of less than $100. In percentage terms as well, the lowest quintile receives an average tax cut of only 0.4% of their income, while the top 1% sees an average tax cut of 2.9% -- more than seven times as large.[v]

The 2017 tax law also continues to demonstrate that reducing the taxes paid by the top does not "trickle down." The TCJA did not lead to increased worker pay or benefits.[vi] For example, the tax savings from the large reduction in the corporate rate went primarily to owners of corporations and the top 10% of wage earners with each firm, with the bottom 90% of wage earners not receiving any benefit.[vii] Overall, more than 80% of the gains from the corporate rate cut were captured by the top 10% of the income distribution.[viii] Additionally, there is broad and bipartisan consensus that the tax law did not spur economic growth to "pay for itself,"[ix] as some suggested at its passage.[x]

<u>The TCJA exacerbated inequality and left women and families behind</u>

The 2017 tax law exacerbated gender and racial inequality – and left women and families behind, because they are underrepresented among those that saw the most reduction in their taxes and overrepresented among those that saw little, if any, of the law's promised benefits.

Women of color in particular, and women overall, are disproportionately left out of tax preferences that favor the top. Systemic discrimination, both historic and ongoing, keeps women and especially women of color from accumulating wealth to the same extent white men have.[xi] Women are underrepresented among top earners,[xii] and women supporting families on their own have the lowest median income among family households.[xiii] Women make up nearly two-thirds of the workforce in the 40 lowest paid jobs, and these workers are disproportionately women of color.[xiv] In addition, white tax filers represented 84% of tax filers in the top 10 percent of the income distribution in 2014, compared to 4.1% of Latinx tax filers and 2.8% of Black tax filers.[xv]

Crucially, even changes to the Child Tax Credit (CTC) in 2017, which is specifically designed to help families with children, left out the families that need it most.[xvi] The TCJA doubled the size of the CTC from $1000 to $2000 per child, and made families with six-figure incomes eligible to receive the credit for the first time. This expansion of the CTC in the TCJA provided little, if any, benefit to families with very low incomes, however. In addition, the TCJA changed the law in order to exclude some immigrant families from benefiting from the CTC altogether.[xvii] By contrast, the expansion of the CTC enacted in the American Rescue Plan Act made the credit fully refundable so that families with the lowest incomes could benefit from it, leading to a steep reduction in child poverty in 2021.[xviii]

<u>The TCJA deprived the nation of revenues to make the investments women and families need and deserve</u>

In addition to exacerbating inequity within the tax code, the 2017 tax cuts lost massive amounts of federal revenue. In the 10-year period after its passage, the TCJA will have lost $1.9 trillion dollars.[xix] This revenue loss has been a primary driver of the federal deficit. Extending the temporary provisions that expire in 2025 would lose even more federal tax revenue: an estimated $3.5 trillion over the next 10 years.[xx] The significant federal revenue losses from TCJA threaten programs women and families rely on, and have undermined the ability of the government to make public investments women and families need and deserve.

After passing this large tax cut for the wealthy in 2017, some lawmakers then championed cuts to federal programs women rely on, like the Supplemental Nutrition Assistance Program (SNAP, formerly known as food stamps), Social Security, and housing assistance, cynically citing the growing federal debt as the justification.[xxi] Moreover, the revenue losses have constrained the fiscal space to make robust public investments that would benefit our communities, workforce, and economy as a whole -- like investments in care infrastructure. The lack of investment in child care, paid family and medical leave, and aging and disability care disproportionately leaves women to perform unpaid or underpaid care work, contributing to gender and racial wealth gaps.[xxii]

The TCJA expirations are an opportunity to change course and require the wealthiest and big corporations to pay more of their fair share

Prior to 2017, the tax code already privileged those at the top, and wealth over work, disadvantaging historically marginalized communities. The TCJA only made our inequitable tax code even more so, to the detriment of our economy and our nation. As the expirations loom, Congress must ensure that the tax code works for all of us, not just the wealthy few.

It is clear that we cannot afford to continue the disastrous approach of more tax cuts for the wealthiest. Instead, lawmakers should allow the temporary 2017 tax cuts for those making over $400,000 a year to expire. Moreover, beyond allowing expiring provisions of the TCJA that disproportionately benefit the wealthy and big corporations to sunset, policymakers should enact additional tax changes. If lawmakers limit the tax debate in 2025 to expiring provisions of the TCJA, they will miss the opportunity to create a more progressive tax system and prevent the wealthiest individuals and profitable corporations from gaming the tax system in their favor. Making the wealthiest pay a fairer share of taxes would, moreover, expand the fiscal space to support investments in women and families. These types of tax changes would also advance gender and racial equity within the tax code[xxiii] and mitigate racial and gender wealth gaps[xxiv] such as that between single Black women and Latinas and single white men (9 cents of wealth for every dollar owned by the latter).[xxv]

Provisions of the TCJA that Congress should address in determining whether to extend expiring provisions include:

- *Top individual income rate*: The TCJA reduced the top income rate from 39.6% to 37%, which in 2024 applies to marginal income over $609,350 for individuals.[xxvi] This change expires at the end of 2025. Comparing the change in tax liability across income groups following the TCJA, those in the lowest tax bracket saw their taxes go down by about $40 per year, while those in the top 5% saw an average tax cut of $11,200 per year.[xxvii] Raising this rate to 39.6% and adjusting the top tax bracket, as President Biden has proposed, would raise $246 billion over 10 years, primarily for the years 2024 and 2025.[xxviii]

- *Estate tax changes:* The TCJA raised the exemption amount for the estate tax from $5.5 million[xxxiii] to $13.6 million in 2024[xxix] (for individuals). This change expires at the end of 2025. As a result of the TCJA, the number of estates subject to the estate tax has dropped dramatically since 2017, to less than 2,000 estates per year.[xxx] (In addition to allowing the TCJA changes to expire, Congress should take additional steps to make this tax more effective. One such proposal is estimated to raise $430 billion over 10 years.)[xxxi]

- *Pass-through deduction:* The 2017 tax law created a new deduction (reduction in the amount of personal taxable income) for income from "pass-through" businesses – those whose owners pay taxes through their personal returns. This kind of income is overwhelmingly concentrated among high-income individuals.[xxxii] More than half of the tax savings from this new deduction went to taxpayers with income over $1 million.[xxxiii] Further, research shows that women entrepreneurs are less likely to have income that qualifies for this deduction due to the size of the business they run.[xxxiv] It is estimated this provision costs more than $50 billion per year as of 2021.[xxxv]

- *Other corporate tax deductions:* In addition to the reduction in the headline corporate tax rate, other deductions that further reduced taxes for corporations were incorporated in the TCJA, including increased deductions for interest on debt and corporate expenses such as research and equipment.[xxxvi]

- *Expand the Child Tax Credit to Help Low Income Families*: Under current law, 19 million children live in families—disproportionately families of color and women-headed families[xxxvii]—that do not qualify for the full credit because they are paid too little.[xxxviii] Improving the Child Tax Credit, first and foremost by making it fully refundable, would meaningfully benefit millions of women and families and advance gender and racial equity--in contrast to the 2017 changes expanding income eligibility, which primarily benefited higher-income families. Congress should allow the 2017 prohibition against claiming the CTC for children with Individual Tax Identification Numbers (ITINs) to expire in 2025.

- *Corporate tax rate:* The TCJA lowered the corporate tax rate from 35% to 21%. Even though this change does not expire in 2025, Congress should take the opportunity to undo this highly regressive provision. As discussed above, these tax savings benefited top executives and managers, not average workers, with more than 80% of the gains going to the top 10% of the income distribution.[xxxix] Raising the corporate rate to 28%, as President Biden has proposed, would generate $1.35 trillion in additional federal revenue.[xl]

In addition to these changes to the provisions of the TCJA, Congress should make other meaningful changes to the tax code that would make the tax code more progressive and advance equity. Here again, Congress has many options, including:

- *Increasing income tax rates for the wealthiest:* A proposed "millionaires surtax,"[xli] such as one passed by the House of Representatives in 2021, would increase tax fairness by ensuring those at the top who can afford to pay more do so.[xlii] This proposal would raise an estimated $228 billion over ten years.[xliii]

- *Taxing income from wealth like income from work:* The design of the individual income tax is intended to take taxpayers' ability to pay into consideration. Yet billionaires pay an estimated effective tax rate of only 8% annually,[xliv] compared to higher rates for working people. Forty-one percent of the income received by the richest households in the United States is derived from wealth, rather than from work.[xlv] Income from wealth, such as capital gains, is generally taxed at a lower rate than the top marginal rate for income from work (20% compared to a top marginal rate of 37%).[xlvi] Moreover, income from work is taxed when received while capital gains are only taxed when assets are sold, even though economists and tax scholars recognize that these gains meet the economic definition of income.[xlvii] This enables the wealthy to borrow against their wealth, or wait to sell until they have other financial circumstances that reduce their tax liability. In addition, wealthy individuals can avoid taxation on their assets if they hold onto them until they die. When the next generation inherits, the asset is valued, for tax purposes, as of the time of inheritance—known as the "step up in basis" or "stepped-up basis."[xlviii] This way, the heirs receive the benefit of assets that have grown in value over a lifetime without those gains ever being taxed.

  Raising the capital gains rate and closing the stepped-up basis loophole,[xlix] as proposed by the Biden Administration, would raise an estimated $289 billion over ten years.[l] Taxing unrealized capital gains annually for the wealthiest, moreover, such as in President Biden's proposed Billionaire Minimum Income Tax, would raise an estimated $503 billion over ten years.[li]

- *Increasing taxes on stock buybacks:* Stock buybacks are commonly used to reduce the number of shares of stock a company on the market, thereby increasing the value per share, as a method of returning profits to shareholders. Other methods, such as dividends, are taxed when they are distributed, but gains from stock buybacks, like other capital gains, are not taxed until the shares are sold, and may never be taxed at all.[lii] Tax advantages for capital gains such as stock buybacks overwhelmingly benefit the wealthy[liii] and white households,[liv] as they are the most likely to hold shares of stock.

  The Inflation Reduction Act introduced a new tax on stock buybacks in order to begin addressing the disparate tax treatment of stock buybacks and dividends. Companies now are required to pay a 1% excise tax on stock buybacks. President Biden has proposed increasing this tax to 4%,[lv] which would raise an estimated $167 Billion over ten years.[lvi]

- *Closing the Carried Interest Loophole:* This provision privileges compensation for private equity managers by allowing them to characterize their income as capital gains, which are subject to a lower tax rate than ordinary income.[lvii] The current treatment of carried interest benefits wealthy workers,[lviii] and raises particular equity concerns, given that private equity is a sector that is notoriously lacking in gender and racial diversity.[lix] Proposals to close this loophole, such as from the Biden Administration[lx] and Congress,[lxi] would raise an estimated $6.6 billion over ten years.[lxii]

Policymakers can also ensure that more federal revenue is collected by ensuring the IRS has sufficient resources to enforce the tax laws already on the books. Every year, an estimated $688 billion in taxes is owed but not collected, known as the "tax gap."[lxiii] Households in the top 1% of income are responsible for an estimated one-quarter of the tax gap.[lxiv] A decade of deep budget cuts left the IRS unable to go after high-income taxpayers with sophisticated tax counsel and the resources to wage lengthy, expensive legal battles over their tax liability.[lxv] A study by the Treasury Inspector General found that, in Tax Years 2014 through 2016, the IRS failed to pursue over 300,000 high-income individuals who did not even file tax returns.[lxvi] The Inflation Reduction Act (IRA) provided the IRS with almost $80 billion in additional funding over 10 years,[lxvii] although this funding has since been reduced. The original IRA funding was conservatively estimated to collect around $400 billion net over a 10-year period.[lxviii] The IRS has already stepped up its enforcement at the top, including auditing millionaires who did not even file returns, collecting significant unpaid taxes.[lxix] Restoring the full IRA funding and adding additional mandatory funding would continue these efforts, raising an estimated $341 billion over ten years.[lxx]

Not only are these changes good policy, but they are also popular. Changes to the tax code to make the wealthiest and big corporations pay their fair share have significant public support, across political affiliation.[lxxi] Specifically, two-thirds of voters support allowing the temporary provisions of the TCJA benefitting the wealthy to expire. In addition, investments in child care, paid family and medical leave, and aging and disability care that could be supported by increasing taxes on the wealthiest are also strongly supported by the public. That is because these long-overdue investments -- unlike tax cuts for the wealthiest -- would support sustainable and inclusive economic growth, and broadly shared prosperity.

For far too long, our tax policies have favored the wealthiest among us and exacerbated gender, racial, and economic disparities. But it doesn't have to be that way. We can make different policy choices that advance equity and support an economy that works for all of us. As policymakers consider the upcoming expiration of the temporary 2017 tax cuts, they should reject the failed strategy of tax cuts at the top and instead align the tax code with our values. The tax code should work for all of us, not just the wealthy few.[lxxii] A more progressive tax code will also raise revenue to support significant public investments in child care, paid family and medical leave, aging and disability care, affordable and accessible housing, healthcare and more,[lxxiii] fostering a stronger and more inclusive economy and advancing racial and gender equity.

NWLC 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 for Income Security at aroyce@nwlc.org.

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