FACTCOALITION
Financial Accountability & Corporate Transparency

February 6, 2017

Member of Congress
U.S. House of Representatives
Washington, DC 20515

RE: Oppose Rep. John Delaney's "Infrastructure 2.0 Act" (or Successor Bill)

Dear Representative,

We write to urge you to oppose the Infrastructure 2.0 Act,[1] or successor bill, which we understand will soon be re-introduced by Rep. John Delaney (D-MD). The bill, as previously drafted, seeks to, but falls short of, addressing the problem of multinational companies engaging in aggressive tax avoidance by offshoring profits, creating a system of multiple tax rates vulnerable to manipulation by multinationals and setting up another repatriation holiday reinforcing incentives for continued offshoring.

Under Rep. Delaney's proposal, multinational corporations would still:

- have extraordinary tax advantages over wholly domestic and small businesses;
- have significant incentives to offshore profits in tax havens; and
- enjoy an outrageous tax holiday after assurances were made in 2004 that such an extraordinary corporate tax break would be a one-time only benefit.

First, the bill would allow multinational companies to repatriate their existing offshore profits at a tax rate of 8.75 percent — lower than even the 10 percent rate proposed by President Trump. That means profitable U.S. corporations subject to the statutory tax rate of 35 percent would get a 75 percent reduction in the tax rate applicable to their foreign earnings — a massive tax break unavailable to any domestic U.S. company or individual U.S. taxpayer.

Second, the bill would also set a deadline for Congress to act on corporate tax reform, and, if that deadline is not met, a complicated set of new tax rules would automatically go into effect. The new rules would impose varying corporate tax rates on corporate foreign earnings based on numerous factors. But the end result would be that U.S. corporations would still pay much lower tax rates on their foreign earnings compared to wholly domestic companies and small businesses. The new rules would not end tax incentives to offshore profits, it would simply modify and extend them.

For example, under the new rules, multinationals that set up shell companies in tax havens with no corporate income tax would be required to pay just 12.25 percent on what they chose to classify as active foreign income to the U.S. That rate of 12.25 percent is well below any tax rate being proposed

[1] See H.R.625, 114th Congress.

for domestic U.S. corporations. For all practical purposes, not a single multinational company would have to pay the tax rate legally required of small businesses and wholly owned domestic companies.

It is misguided and ill-advised to reward multinational companies — those that shift their U.S. profits offshore — at the expense of companies that are fully committed to America.

In short, the Delaney bill would replace one loophole-ridden system of corporate taxation with another, perpetuating the gaming of the tax code that enables profitable multinational companies to play by their own set of privileged rules. Worse yet, it fails to set up any effective backstop to stop corporations from moving operations, jobs, and profits offshore.

A recent report by the U.S. PIRG Education Fund found that, under the current system:

> *[Taxpayers lose] approximately $147 billion in federal and state revenue each year due to corporations using tax havens to dodge taxes … Every small business would need to pay an additional $4,481 in federal taxes to account for the revenue lost … [and] pay on average an additional $647 to make up for the lost state taxes … Because state corporate tax rates vary considerably, small businesses in some states would have to pay as much as $2,520 to make up for state tax revenue lost to tax haven abuse.*[2]

Providing another tax holiday for multinational corporations dismisses history. In 2004, Congress approved a massive corporate tax holiday. The bill supposedly was designed to ensure that the repatriated funds were used to expand operations and hire workers. But none of that happened. Studies found that no new investment or jobs were created. Instead, the bulk of the funds was used to repurchase company stock. The stock buybacks raised share prices, allowing corporate executives to exercise their stock options and personally profit. Even more troublesome, and contrary to promises made, many of the same companies had net job losses over the following two years.[3]

Given how the proposal is structured, there is little reason to assume different behavior or outcomes this time. Multinational corporations that booked profits in tax havens with no corporate income tax would only pay U.S. taxes on 25 percent of those profits (there is a 75 percent exemption on taxable profits in the bill). That works out to an effective tax rate of 8.75%, as mentioned above — less than the rate proposed by President Trump and even less than the statutory rate for a person making minimum wage.

The proposal would establish permanent benefits for offshoring profits, undercutting tax revenue for infrastructure and other needs into the future.

There is a right way to reform the corporate tax system. Congress should end deferral of taxes on profits booked offshore. The statutory tax rate should be the same regardless of where you choose to book your profits — no favoring multinationals over small businesses. Companies should not have free

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[2] Robins, Alexandria; and Michelle Surka. "*Picking Up the Tab 2016: Small Businesses Bear the Burden for Offshore Tax Havens.*" Washington, DC: U.S. PIRG Education Fund, November 2016 (accessible at http://uspirg.org/reports/usp/picking-tab-2016).
[3] Galston, William A. "*Can Tax Reform Benefit Anyone Beyond the C Suite*?" Washington, DC: The Brookings Institution, January 2017 (accessible at http://brook.gs/2jbsJPO).

reign to strip earnings from their U.S. operations and move them to offshore havens. And we must ensure multinationals play by the rules, by requiring that they publicly report, on a country-by-country basis, where they earn their profits and pay their taxes.

The Infrastructure 2.0 Act, or successor bill, takes us in the wrong direction. We urge you to oppose the bill and work to enact reforms that are fair to small business, domestic businesses and multinationals alike.

Thank you for your consideration. For more information, please contact Clark Gascoigne at cgascoigne@thefactcoalition.org.

Sincerely,

Gary Kalman
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The FACT Coalition

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Deputy Executive Director
The FACT Coalition

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Arizona Fair Share
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California Fair Share
California/Venezuela Region – Religious Sisters of Charity
California Public Interest Research Group
Jubilee Bay Area
Main Street Alliance of California

Colorado
Colorado Fair Share
Colorado Main Street Alliance
Colorado Public Interest Research Group

Connecticut
Connecticut Fair Share
Connecticut Public Interest Research Group

Delaware
Delaware Americans for Democratic Action (Delaware ADA)

Florida
Florida Fair Share
Florida Public Interest Research Group
Main Street Alliance of Florida

Georgia
Georgia Fair Share
Georgia Public Interest Research Group

Idaho
Idaho Main Street Alliance

Illinois
Citizen Action / Illinois Illinois Fair Share
Illinois Public Interest Research Group

Iowa
Iowa Citizen Action Network
Iowa Citizens for Community Improvement

Iowa Fair Share
Iowa Farmers Union
Iowa Main Street Alliance
Move to Amend – Iowa Chapter

Kentucky
Kentucky Fair Share

Minnesota
Main Street Alliance of Minnesota
Minnesota Fair Share

Maine
Maine Small Business Coalition

Maryland
Maryland Fair Share
Maryland Public Interest Research Group

Massachusetts
Massachusetts Fair Share
Massachusetts Public Interest Research Group

Michigan
Michigan Fair Share
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