



WRITTEN TESTIMONY
BEFORE THE U.S. SENATE COMMITTEE ON BUDGET
HEARING ON
THE GREAT TAX ESCAPE: CLOSING CORPORATE LOOPHOLES THAT REWARD
OFFSHORING JOBS AND PROFITS

January 17, 2024

John Arensmeyer, Founder & CEO

Small Business Majority

Chairman Whitehouse, Ranking Member Grassley, and members of the Senate Committee on the Budget, Thank you for inviting me to speak about the critical importance of ensuring that our tax code is fair and equitable on behalf of America's 33 million small businesses.

My name is John Arensmeyer. I am the founder and CEO of Small Business Majority, a national small business organization that empowers America's diverse entrepreneurs to build a thriving and equitable economy. Prior to launching Small Business Majority nearly 20 years ago, I was the founder and CEO of an award-winning international interactive communications company, which I ran for 12 years. Earlier, I was the Chief Operating Officer of a pioneering multimedia business. Therefore, on behalf of our nation's 33 million small businesses and as a long-time entrepreneur, I look forward to speaking directly to the impact of our tax code on America's Main Street small enterprises, and to our economy.

At Small Business Majority we engage our network of more than 85,000 small businesses and 1,500 business and community organizations to advocate for public policy solutions and deliver resources to entrepreneurs that promote equitable small business growth. As a leading representative of America's primary job creators, we are honored to testify today on the importance of a fair system of taxation that promotes inclusive and accessible entrepreneurship as the foundation of our economy. To that end, America's small business owners want a level playing field on which to do business; an essential component of this is a tax system where individuals and corporations pay their fair share.

For more than a decade we have examined the reality of how taxation affects America's small businesses and have effectively advocated for policies that support a resilient, inclusive economy. Our work has combined analyses of tax policies' impacts on Main Street along with scientific research into small business needs and attitudes. Our work is bolstered by the stories of real small business owners.

Small Business Majority research shows that business owners want tax fairness, including the tax standards to which corporations must adhere

In 2021, we conducted multiple surveys to better understand the perspectives of small business owners when it comes to tax policy.¹ Our research revealed that America's small businesses strongly believe our

¹ "Survey: Small businesses support tax reforms to pay for robust infrastructure investments." Small Business Majority. June 8, 2021. <https://smallbusinessmajority.org/sites/default/files/research-reports/June-2021-Infrastructure-Report.pdf>; "Small businesses share views on proposed tax reforms, workforce shortages." Small Business Majority. Aug 18, 2021. <https://smallbusinessmajority.org/sites/default/files/research-reports/Aug-2021-Network-Poll.pdf>.

nation's tax system favors large corporations and the wealthy over Main Street. Specifically, small businesses feel disadvantaged by loopholes that allow larger and wealthier businesses to avoid paying their share of taxes.

The following are some of our research findings:

- 73% of business owners agreed that the current tax system favors big businesses over their small business.
- 69% cited that offshore tax loopholes allowed bigger businesses to avert paying their fair share.
- An overwhelming 76% percent of respondents cited that more tax incentives for small businesses should be provided.
- Our respondents showed strong support for provisions aimed at leveling the playing field through tax reforms, such as the 15% minimum tax requirement levied on the biggest corporations in our economy through the *Inflation Reduction Act*.² In examining corporate profits, especially those made offshore, **66% of our network said they support setting a minimum tax rate of 21% on corporate offshore profits.**

While large corporations continue to get away with outsourcing production, investments, and output to pay fewer taxes, our nation's smallest businesses, those that policymakers claim to be the backbone of this economy, simply do not have that same luxury. Like small enterprises across the country, 75% of the small businesses in our network have fewer than 10 employees (one-third of which are solopreneurs). They simply do not have the in-house capacity, tax expertise, or legal counsel to help them manipulate tax loopholes to their advantage like their larger wealthier counterparts. Moreover, small businesses are not the driving force behind foreign investment—an activity that rewards further tax breaks for large established businesses. We have found that small firms seldom have the capital that they need to expand their business at home, let alone abroad, and therefore, competing with big firms that can afford to send money and facilities overseas for tax deductions presents yet another barrier to their success. In other words, if very few small businesses are able to take advantage of offshore loopholes, why should they continue to face additional disadvantages and barriers when competing with those firms that do? Small businesses already have a difficult time competing with large ones, in areas ranging from providing benefits, to accessing capital; the tax code should not work to exacerbate these inequities, but that is simply the reality we find ourselves in today.

Initiatives to bring parity to the tax code and recover lost revenue would greatly support our small business community

The disparities that we are here to discuss today are why we endorsed and continue to support legislative efforts to clamp down on these exorbitant loopholes for the wealthiest corporations in America, including the *No Tax Breaks for Outsourcing Act*, which would address inequities implemented by the “Tax Cuts and Jobs Act” (TCJA) referred to here as the Trump tax law.^{3,4} The 2017 law created new incentives to outsource production and jobs by cutting the tax rate in half for overseas versus domestic investments. Since the law was enacted, companies have increased foreign investment, leaving the “Made in America” based businesses, large and small, to pick up the slack. The money that corporations are writing off in tax deductions overseas could be better spent here at home on critical programs that business owners rely on to start, scale and improve their business. A few examples of programs that could use this funding include (but are not limited to) increased lending capacity through the U.S. Small Business Administration (SBA),

² “IRS and Treasury provide guidance for insurance providers on alternative minimum tax under the Inflation Reduction Act.” Internal Revenue Service. Feb 17, 2023. <https://www.irs.gov/newsroom/irs-and-treasury-provide-guidance-for-insurance-providers-on-alternative-minimum-tax-under-the-inflation-reduction-act>.

³ “S.714 - No Tax Breaks for Outsourcing Act.” 117th Congress. March 11, 2021. <https://www.congress.gov/bill/117th-congress/senate-bill/714/text>.

⁴ “H.R. – Tax Cuts and Jobs Act.” 115th Congress. Dec 22, 2017. <https://www.congress.gov/bill/115th-congress/house-bill/1/text>.

the SBA's entrepreneurial development programs including Women's Business Centers, Small Business Development Centers, and small business set-asides in the 8(a) Business Development Program. Other agencies that benefit small businesses have fought hard to see an increase in funding. For example, the Minority Business Development Agency, which was authorized at \$110 million in the Bipartisan Infrastructure Law, has yet to be funded at that level, leaving a critical gap in support and capacity for businesses that are minority owned and desperately need technical assistance.⁵

The foregone revenue resulting from corporations shifting profits and investments overseas could also go towards supporting and bolstering organizations that provide access to capital for small and disadvantaged businesses, including the Community Development Financial Institution (CDFI) Fund at the Department of Treasury, or to provide more funding for the State Small Business Credit Initiative (SSBCI). Lastly, to help small businesses obtain contracts and compete for prime and subcontract work, increased revenue could also be better allocated to support set-aside dollars across the whole of government, supporting innovative procurement programs across agencies from the General Services Administration to the Department of Energy. These are simply a few examples of how additional financial support could be deployed to grow our entrepreneurial economy. But unfortunately, these are the very same programs that must scrape by with marginal increases in funding despite increased demand.

For these reasons, we support requiring multinationals to pay the same rate on profits earned abroad as they would domestically by eliminating the tax exemption for overseas investments in tangible assets to reduce undue disparities between large and small businesses in the tax code. The current tax system that many corporations exploit to their advantage abroad is something that hardly any small firms can enjoy. Closing these loopholes would bring small firms one step closer to parity when competing with large enterprises. If America's small business community must play by a set of fair and equitable rules, so must large businesses that exploit tax havens and loopholes abroad.

Examining the impacts of tax disparities from the 2017 Trump tax law—a promise that failed to deliver for Main Street

While we are here to discuss offshore and international tax loopholes, they should not be viewed in a vacuum. The 2017 Trump tax law that claimed to bring benefits to America's smallest businesses has simply failed to deliver on that promise, all while enabling wealthy corporations to exploit our tax system. This law has not only incentivized larger companies to outsource production to avert taxation, but it has not delivered for most Main Street businesses.

Take the pass-through deduction as an example: While it is true that 95% of small business pass their profits and losses to their owners (a fact that is repeated *ad nauseum* by those advocating for tax cuts for the wealthy), this statistic on its own is meaningless.

- Based on 2021 Tax Policy Center data, only 4.2% of businesses have pass-through business income taxed in the top-two brackets and 69% of all pass-through income is earned by those few business owners in these two rarified brackets.⁶ The disparate economic impact is even more pronounced when you factor in the higher marginal tax rates themselves.
- Approximately 96% of all small businesses in the U.S. are not affected by any changes in the top two tax brackets, and;
- Most of the benefit of the 20% pass-through deduction in the Trump tax law flows to the wealthiest 4% of businesses, not your typical Main Street enterprises.

⁵ "H.R.3684 - Infrastructure Investment and Jobs Act." 117th Congress. June 4, 2021. <https://www.congress.gov/bill/117th-congress/house-bill/3684/text>.

⁶ "Sources of Flow-Through Business Income by Statutory Marginal Tax Rate; Current Law, 2021." Tax Policy Center. Sept 3, 2021. <https://www.taxpolicycenter.org/model-estimates/distribution-business-income-september-2021/t21-0222-sources-flow-through-business>.

The data we are sharing today is just one example of how the Trump tax law created inequities that must be rectified.

The system created by the Trump tax law moved toward a "territorial" corporate tax system that solidifies an even more unequal playing field for small businesses. The loophole primarily benefits a handful of large corporations at the expense of small businesses. According to the Joint Committee on Taxation, the Trump tax law's provision taxing foreign profits of U.S. multinationals at a lower rate than the rate that applies to domestic profits will cost more than \$200 billion in revenue over the 2023-2027 time period.⁷ This system has allowed a few multinational corporations to continue funneling their profits to the lowest-taxation foreign jurisdictions, a privilege small firms cannot exploit.

To compound the issue, this provision is layered on top of another loophole in the law, permitting large multinational corporations to repatriate their past profits at a significantly discounted rate.⁸ Furthermore, the new tax code, characterized by a substantial gap between top individual rates and top pass-through rates, incentivizes wealthy individuals to manipulate the system by declaring themselves as pass-through business entities. Although the law restricts certain industries from accessing the pass-through rate, there is no effective mechanism to prevent the abuse of the deduction, which we see play out in real time. Since the passage of the 2017 tax law, we have seen that the benefits continue to go directly to millionaires and billionaires, not Main Street. For example, Americans for Tax Fairness found that billionaires became \$2.2 trillion richer since the law was enacted, while at the same time our federal programs supporting small businesses continue to scrape for funding following a surge of demand during the COVID-19 pandemic. To be exact, 748 of America's richest individuals passed \$5 trillion in collective net worth. The permanency of this package would cost American taxpayers another \$3.8 trillion, which would only exacerbate the economic challenges already in place due to this reckless law.⁹

Not only are tax loopholes for high-income taxpayers unfair to hard-working small business owners who pay more in taxes relative to their income than any billionaire, but they are also keeping our government further in debt. All too often, programs that support our entrepreneurs pay the price when it comes to budget cuts, or simply do not increase their operating budgets thanks to said debt. We are seeing this play out in the budget debates happening right now. Therefore, reforms made to close these loopholes would do right by the average, hardworking American taxpayer and the small business community by allowing those dollars to be better invested back at home, rather than hemorrhaging lost revenue in tax havens. The Tax Policy Center estimates that corporations that use this loophole would pay \$1 million on \$20 million of profits from an overseas factory while domestic factories would pay \$4 million in taxes if the factory were to be domestically placed.¹⁰ This same tax loophole is not afforded to small firms—they cannot simply export their operations overseas to lower their tax payments as in many cases, the manufacturers are very small.

As you can see, offshore tax loopholes that festered as a result of the "Trump tax cuts" were able to do so as the tax law was structured in a convoluted manner, disproportionately favoring those at the top, particularly benefiting the largest and most profitable business entities. Even for small business owners who may experience some advantages, the savings were thought of as insufficient to support meaningful growth or reinvestment in their businesses.

When the 2017 tax law first passed, we asked our network what they thought about the new law. Small Business Majority National Council member Clifton Broumand, Owner of Man & Machine Inc., a medical

⁷ "CBO Estimates TCJA Extensions Could Cost Up to \$2.7 Trillion." Committee for a Responsible Federal Budget. June 28, 2022. <https://www.crfb.org/blogs/cbo-estimates-tcja-extensions-could-cost-27-trillion>.

⁸ "What is the TCJA repatriation tax and how does it work?" Tax Policy Center. May 2020. <https://www.taxpolicycenter.org/briefing-book/what-tcja-repatriation-tax-and-how-does-it-work>.

⁹ "Billionaires \$2.2 Trillion Richer Since 2017 Trump GOP Tax Law." Americans for Tax Fairness. Sept 28, 2023. <https://americansfortaxfairness.org/billionaires-2-2-trillion-richer-since-2017-trump-gop-tax-law>.

¹⁰ "Current Tax Reform Bills Could Encourage US Jobs, Factories and Profits to Shift Overseas." Tax Policy Center. Nov 28, 2017. <https://www.taxpolicycenter.org/taxvox/current-tax-reform-bills-could-encourage-us-jobs-factories-and-profits-shift-overseas>.

keyboard and mouse manufacturer in Landover, Maryland that exports its products, expressed the view that the tax bill appears tailored for businesses at the top of the hierarchy, rather than for small businesses like his. Broumand noted that the tax filing process has become even more challenging, and he has observed no discernible benefit or savings from the tax law.¹¹

Today, Broumand’s sentiments remain the same and prove that the law has only further complicated tax matters for many U.S. based businesses, even those that are expanding internationally. Clifton stated:

“Large businesses get to hide their taxes by shell corporations and putting them in every place. In Holland where I now have an office, I’ve had to go through many iterations of helping the Dutch tax authority to understand the work that I do so that I can pay the appropriate taxes there. And this has taken much effort. I also pay taxes in the United States on my business’s profits. I mean, if you have a lot of money to throw at a lot of lawyers, you’re going to find a way to avoid paying those taxes.”

Clifton Broumand has not seen a penny from the promises of the 2017 tax law. Instead, he stated that ironically if he as a small business owner wanted to reap any benefits from the tax law, he would choose to buy stock in a multinational company.

Conclusion: Small businesses need a fair tax code and a level playing field, especially when competing with larger companies in their communities

Over the last few years, small business owners have made their message clear to Congress: small businesses wanted a simplified and streamlined tax system that would also help level the playing with large corporations, but they got the opposite. Small business owners seek fairness, not special treatment, in the tax code, desiring a level playing field for competition, including when competing with large-scale corporations. Navigating a complex tax code that is not designed for small businesses shouldn’t be a hurdle for American entrepreneurs striving to operate and expand their businesses.

Congress must act to close international tax loopholes and clamp down on abusive practices that allow large corporations to shift profits to tax havens, a practice that continues largely unabated after the implementation of the Trump tax law that made it easier for corporations to avoid paying their fair share.

We are glad to see that Congress is examining this issue and thank the Committee for its efforts to make our tax system fairer. Making international tax provisions more equitable would provide benefits for American-based small businesses by providing more investment at home, bringing fairer competition to our economy, and ensuring that small businesses are not left picking up the tab that remains unpaid by the largest corporations. We must enact solutions that benefit small business owners and inspire more entrepreneurs to pursue the American Dream.

Thank you for your time. I look forward to taking your questions.

John Arensmeyer
Founder & CEO
Small Business Majority

¹¹ “Written statement before the U.S. Senate Committee on Small Business & Entrepreneurship hearing on “Expanding Opportunities for Small Business through the Tax Code”. Small Business Majority. Oct 3, 2018. <https://smallbusinessmajority.org/sites/default/files/policy-docs/100318-SBM-Small-Business-Committee-tax-hearing.pdf>.