United States Senate

WASHINGTON, DC 20510

July 25, 2024

The Honorable Patty Murray
Chair
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Susan Collins
Vice Chair
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Chair Murray and Vice Chair Collins:

We write regarding Fiscal Year 2025 (FY25) appropriations for the Organisation for Economic Co-Operation and Development (OECD).

Over sixty years ago, the United States joined the OECD as its most significant financial backer under an OECD promise to "promote policies designed to achieve the highest sustainable economic growth, employment and a rising standard of living in Member countries."

Consistent with that objective, the OECD's historical role in tax policy was largely focused on crafting recommendations and best practices for member countries to prevent double taxation and promote pro-growth tax policies. For example, in 1963, the OECD published a draft model tax treaty, which includes "recommendations which it suggests should be made to Member countries in order that the Draft Convention may be the medium through which a substantial advance can be made forthwith towards … the abolition of double taxation." As recently as 2010, the OECD published a paper entitled "*Growth-oriented Tax Policy Reform Recommendations*", stating that "corporate income taxes are the most harmful for growth as they discourage the activities of firms that are most important for growth: investment in capital and productivity improvements" and recommending that "lowering statutory corporate tax rates can lead to particularly large productivity gains in firms that are dynamic and profitable."

However, in recent years, the OECD's global tax policy agenda has fallen woefully short of its original mission and strayed far from its historical role, shifting from recommendations and best practices to complex, anti-growth mandates. As detailed below, even with the U.S. funding nearly 20% of the OECD's Part I budget—more than twice the amount of any other country—the OECD has abandoned its core mission in a manner materially harmful to U.S. workers and businesses. Over the last six years, the evolution of the OECD Two-Pillar project on addressing tax challenges arising from the digitalization of the economy exemplifies the shift in OECD global tax priorities which has resulted in outcomes adverse to U.S. economic interests.

As background, before the U.S. enacted the Tax Cuts and Jobs Act (TCJA), certain OECD member countries—chiefly EU countries where innovation had stifled—sought to impermissibly tax revenue from successful U.S. companies, but couched it in complaints that those companies did not pay enough tax on their international income.

By enacting the TCJA in 2017, the U.S. directly addressed those complaints. The TCJA not only demonstrated that competitive tax rates and broad-based investment incentives drive economic growth and raise wages without spurring inflation but also responded to those complaints by enacting a first-of-its-kind global minimum tax and other anti-base erosion measures.

Notably, in response to the TCJA's robust anti-base erosion measures, certain OECD countries shifted their pre-TCJA narrative: since the debate could no longer be *whether* successful U.S. companies paid tax on their international income, those countries now complained about *where* U.S. companies paid that tax. In other words, they finally publicly admitted what they always wanted—a bigger share of successful U.S. companies' tax pie.

Foreign countries' attempt to grab a larger slice was primarily through imposing discriminatory digital services taxes (DSTs) on gross revenue of certain successful U.S. companies, based on consumer or user location, irrespective of where the innovation took place. In 2018, to resist expansion of DSTs, the U.S. Administration—with bipartisan Congressional backing—agreed to negotiate through the OECD with one primary objective: to stop foreign countries' discriminatory, extraterritorial taxation of American businesses.

Now with six years of hindsight, it's difficult to conclude that negotiating this issue through the OECD has advanced U.S. interests. After trusting the OECD with an inch as a forum to facilitate halting extraterritorial taxation, the OECD—with the support of the Biden Administration—seized to expand its mandate miles beyond its historical role, and instead spearheaded new forms of discriminatory taxation.

In doing so, the OECD Two-Pillar "solution" has flipped the original mission of the project on its head. Not only has the evolution of Pillar One failed to provide U.S. companies greater certainty and stability as DSTs and other discriminatory measures still abound, but even worse, Pillar Two's global minimum tax has created a new form of extraterritorial taxation through the UTPR surtax. This diversion strays far from both the OECD's original mission and historical role in global tax policy.

While Pillar Two proponents allege that its global adoption will halt the so-called "race-to-the-bottom" in tax rates, it's clear now that it will instead encourage a more supercharged race for government subsidies and refundable tax credits. To the extent the OECD believes its mission should include creating anti-growth tax mandates and appointing itself the global arbiter of determining worthy tax incentives—in a manner that uniquely discriminates against U.S.

interests—we question why the U.S. should continue to reflexively fund special tax projects through that organization.

The OECD is funded through voluntary contributions from member countries, with its Part I operating budget allocated by the size of members' economies and its Part II program budget allocated among nations based on their interest in various programs. The U.S. currently funds 18.3% of the OECD's Part I budget, more than double any other member.

Per the OECD's budget, Part II programs are funded according to the scale of contributions and are not funded by all member countries. It is our understanding that the U.S. contributions unequally drive the scale of funding. Because the OECD utilizes U.S. funding which has resulted in policies adverse to American workers and businesses, we request you include language in the FY25 State Department and Foreign Operations appropriations bill suspending any Part II funding or voluntary contributions provided to the OECD.

We don't make this request lightly and are well aware of global opposition to reducing U.S. funding of the OECD. Indeed, some OECD advocates have instead suggested that a mere reset is necessary between the U.S. and the OECD on tax negotiations to produce more constructive results and adequately protect U.S. interests. But continuing to plead for changes without adjusting the U.S. position as its largest funder rewards bad behavior and encourages the OECD's diversion from its original mission.

We are also aware of the warning from OECD proponents that undermining the OECD would platform an alternative forum more harmful to U.S. interests. In other words, it has been asserted that the lack of U.S. support for OECD global tax rules emboldens more allegedly unfavorable tax policies being developed through the United Nations. However, we don't accept the premise that there is a binary choice regarding the least bad global tax mandates; we have no interest in flatly complying with global tax rules pronounced by intergovernmental organizations just for the sake of maintaining U.S. influence in multilateral tax policymaking. Harmonizing rules with a global world tax order should never be prioritized over the best interests of American workers and businesses.

We appreciate your attention to this matter and thank you for your work on State Department and Foreign Operations appropriations as the United States faces critical security challenges abroad.

Sincerely,

Steve Daines
United States Senator

James Lankford
United States Senator

Mike Crapo
United States Senator

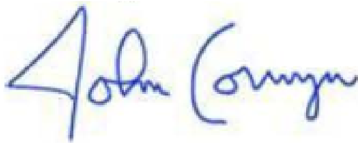
Thom Tillis
United States Senator

Marsha Blackburn
United States Senator

John Thune
United States Senator

Chuck Grassley
United States Senator

Todd Young
United States Senator



John Cornyn
United States Senator