



SENATE FINANCE COMMITTEE AND HOUSE WAYS AND MEANS COMMITTEE

HEARINGS ON THE PRESIDENT'S FISCAL YEAR 2022 BUDGET WITH TREASURY SECRETARY JANET YELLEN

June 16 & 17, 2021

OVERVIEW

Last week, the Senate Finance Committee and the House Ways and Means Committee held hearings on the President's Fiscal Year 2022 Budget with Treasury Secretary Janet Yellen. During the hearings, Senators, Representatives, and the witness discussed: Digital Services Taxes (DSTs); a global minimum tax rate; tax reform; the ProPublica tax leak; step-up in basis and capital gains tax; inflation; corporate tax rate; the Financial Crimes Enforcement Network (FinCEN); China; 501(c)3 and 501(c)4 corporations; supply chain resiliency; cybersecurity; the gas tax; state and local tax (SALT) cap; tax credits; and the labor force participation rate.

OPENING STATEMENTS

- [Chairman Ron Wyden](#) (D-OR)
- [Ranking Member Mike Crapo](#) (R-ID)
- [Chairman Richard Neal](#) (D-MA)
- [Ranking Member Kevin Brady](#) (R-TX)

WITNESS PANEL

- [The Honorable Janet L. Yellen](#), Secretary, United States Department of the Treasury

QUESTION AND ANSWER SUMMARY

Digital Services Taxes (DSTs)

Chairman Ron Wyden (D-OR) asked about the progress of negotiations in “putting an end” to Digital Services Taxes (DSTs). Secretary Yellen stated the G7 reached an agreement to remove DSTs and “other relevant similar measures” on all companies. Additionally, she asserted the U.S. has “changed the norms surrounding DSTs,” by “conveying to our trading partners that the discriminatory nature of these taxes is unacceptable.” She claimed that by “conveying this message multilaterally” the Biden Administration has “prevented a series of trade disputes that [would be] harmful to U.S. businesses, workers, and consumers.” However, she concluded Treasury and USTR are “retaining all options for discouraging the use of DSTs,” as USTR has started trade retaliation procedures via investigations under Section 301. Chairman Wyden then asked Secretary Yellen if she would commit to a “swift resolution” for discriminatory DSTs.

Secretary Yellen agreed to “pursue absolutely every avenue toward a swift and comprehensive standstill and rollback” of DSTs. She added DSTs are “standing in the way of a once in a generation opportunity to create a new international tax system.”

Global Minimum Tax Rate

Ranking Member Mike Crapo (R-ID) asked if the Biden Administration supports increasing the Global Intangible Low-Taxed Income (GILTI) rate to 26 percent before other countries, such as China, agree to enact a higher global minimum tax. Secretary Yellen clarified the Biden Administration’s GILTI proposal would increase the tax to 21 percent not 26 percent. She continued that the Biden Administration is negotiating a global minimum tax that is at least 15 percent, which the G7 recently agreed to. Secretary Yellen argued that if the U.S. increases its GILTI rate within “the same territory that we are asking other countries to do” then “we have a very good chance of getting other countries to agree” to a higher global minimum tax rate. She added the Biden Administration “feels good about the progress we are making internationally.”

Ranking Member Crapo noted that many “critical nations” are not members of the Organization for Economic Cooperation and Development (OECD) and questioned the effectiveness of a global minimum tax agreement if certain key countries are excluded. Secretary Yellen expressed confidence that Ireland and the European Union (EU) “will go along with a higher minimum tax.” She asserted that every country does not need to agree to a global minimum tax because Pillar Two at the OECD contains an “enforcement mechanism” that can be used to incent “holdout” countries and tax havens to “come on board and establish a global minimum tax.” She concluded that if incentives still do not successfully encourage countries to adopt a global minimum tax, then the Biden Administration can utilize the Stopping Harmful Inversions and Ending Low-Tax Developments (SHIELD) rule.

Ranking Member Crapo asked Secretary Yellen to expound on how SHIELD is intended to work. Secretary Yellen explained SHIELD is used to stop foreign company profit shifting by denying deductions to firms operating in the U.S. “when they make deductions that reflect payments to their own affiliates ... based in a tax haven that does not have a global minimum tax,” ostensibly making it “impossible for these firms to shift income derived from U.S. activities into tax haven countries.” She also argued that the use of SHIELD would incentivize tax havens to adopt a global minimum tax because they would be deprived of the benefits that tax havens typically experience. She concluded that the SHIELD proposal is superior to the current base erosion and anti-abuse tax (BEAT).

Senator John Cornyn (R-TX) asked what the role of Congress is in G7 negotiations regarding a global minimum tax. Secretary Yellen stated any agreement reached at the G7 and the OECD must be enacted by Congress, as it would affect U.S. tax law.

Senator Sherrod Brown (D-OH) asked if a global minimum tax would benefit American workers. Secretary Yellen claimed the tax system “contains incentives that make it profitable, in some cases, for American firms to move jobs overseas,” which has resulted in a “race to the bottom in corporate taxes.” She argued a global minimum tax would address unfair competition that American businesses face from foreign-based corporations that are located in low tax areas.

Senator Steve Daines (R-MT) asked Secretary Yellen if she would accept a global minimum tax deal that includes special carveouts for China. Secretary Yellen claimed she would “not agree to any type of carveout that would meaningfully weaken a robust global minimum tax regime, not for China or any other country.” She stressed the importance of ensuring a global minimum tax agreement is “not filled with loopholes.”

Rep. Stacey Plaskett (D-VI) expressed concern regarding the Biden Administration’s proposal to increase GILTI to 21 percent and eliminate the existing exclusion for the first 10 percent. She argued this change would disincentivize companies from operating in the Virgin Islands and other U.S. territories. She asked Secretary Yellen if she would commit to working with Congress to “develop appropriate and effective resolutions” that would “encourage investment in the territories while at the same time making sure those individuals who come to the territories are in fact good actors.” Secretary Yellen answered in the affirmative, and noted she “understand[s] the concerns.”

Rep. Drew Ferguson (R-GA) asked which businesses would be included under OECD Pillar One, specifically the number of American and Chinese companies that will be included. Secretary Yellen explained the OECD Pillar One negotiations have discussed including companies with sales over \$20 billion.

Rep. Don Beyer (D-VA) highlighted the Biden Administration's proposal to require multinational corporations to calculate their GILTI tax liability on a country-by-country basis "so they cannot blend their foreign earnings from ... low tax and high tax jurisdictions." He then noted that some companies have expressed concerns about this calculation and claimed it would be "way too complex and that profits in one country could be offset by losses in another." Secretary Yellen argued that a country-by-country calculation is "very important" because "allowing U.S. companies to blend their income from different countries perversely creates a kind of America last problem." She asserted companies are incentivized to operate in both low tax and high tax jurisdictions "since they can blend these two streams." She concluded that companies are "already compiling the information that would be necessary to do this on a country-by-country basis," so this provision is "entirely feasible and practical."

Tax Reform

Senator Debbie Stabenow (D-MI) asked Secretary Yellen to clarify President Biden's statements regarding "rightsizing the tax system and ensuring everyone pays what they should." Secretary Yellen stated there is an "enormous tax gap" that is estimated to cost \$7 trillion over the next decade and "reflects shortfalls in collection for high-income individuals and corporations." In order to "close this gap," she explained the Biden Administration has proposed increasing the resources and funding available to the Internal Revenue Service (IRS) to advance the agency's technology and employee training capabilities. Additionally, she stated the Administration has proposed providing the IRS with more taxpayer information to help it better target audits.

Senator Cornyn asked if Secretary Yellen is "endorsing the idea" that Congress should be removed from oversight of the IRS. Secretary Yellen responded she has "no such thought," as it is "important that Congress has oversight of all Executive Branch agencies." She explained the Biden Administration has proposed an increase in funding for the IRS because it currently "does not have the budget to undertake long-term programs of modernization of their technology and retain qualified staff that are needed to improve their audit performance."

Senator Tom Carper (D-DE) asked Secretary Yellen to highlight provisions in President Biden's budget request that "strengthens the fairness of our tax system." Secretary Yellen claimed President Biden has been "scrupulous" in ensuring "no taxpayer earning under \$400,000 will see their taxes raised," as the Biden Administration's proposal would target high-income taxpayers by raising the top tax rate and increasing the tax rate on dividends and capital gains. Additionally, she reiterated the Biden Administration's proposal to provide the IRS additional resources to more effectively "audit high-income individuals and companies that are responsible for the tax gap."

Senator James Lankford (R-OK) noted the Biden Administration's tax reform proposal would require additional information on high-income taxpayers, specifically requiring information for every transaction of \$600 or more for every individual, lowered from the current level of \$10,000 transactions. He then asked why the IRS needs "that level of granularity." Secretary Yellen stated the proposal would add two additional "boxes" to Form 1099, that would include the aggregate inflows and outflows from the account over the course of a year. She argued this additional data is "easily accessible and involves essentially no additional burden on financial institutions." She concluded that by collecting this information it would "greatly assist the IRS in knowing where to target their audit resources."

Ranking Member Kevin Brady (R-TX) asked Secretary Yellen if President Biden will "roll back the tax cuts for middle class families" included in the Tax Cuts and Jobs Act (TCJA). Secretary Yellen responded President Biden has not "taken a position on what tax policy should be" in 2026.

Rep. Lloyd Doggett (D-TX) asked how the Biden Administration will achieve "equity in our tax system." Secretary Yellen asserted that 98 to 99 percent of "hard-working wage and salary earners" are paying their correct amount of taxes. However, she stated high-income individuals and corporations have "streams of revenue that are less well captured by the

IRS and compliance is far lower.” She added that “taxing incomes from capital dividends and capital gains at lower rates than workers face on their wages also seems unfair.”

Rep. Lloyd Smucker (R-PA) asked if Secretary Yellen supports a “wealth tax.” Secretary Yellen stated the Biden Administration has not supported a wealth tax. She explained the Biden Administration’s approach “would result in higher taxation on capital gains for high-income individuals and would end step up of basis, which is kind of a way of escaping capital gains taxation by holding until death.”

ProPublica Tax Leak

Senator John Thune (R-SD) highlighted that private tax information was leaked to ProPublica and published online. He then asked how the IRS will ensure a data breach, such as this one, does not happen again. Secretary Yellen agreed this is a “very serious situation,” and Treasury has referred the investigation to its Inspector General (IG) and the Department of Justice (DOJ). She added Treasury does not “have any facts at this point,” but stated after the investigation is complete Treasury will take appropriate action in response to this data breach.

Senator Lankford also highlighted the ProPublica tax leak and asked how the IRS is investigating this data breach. Secretary Yellen reiterated the source of this data leak is currently unknown, and “we do not know that it was a leak from the IRS.”

Step-Up in Basis and Capital Gains Tax

Senator Chuck Grassley (R-IA) asked if “family farms of several generations” will be “broken up” if step-up in basis is restructured. Secretary Yellen clarified the Biden Administration’s proposed change to step-up in basis would continue to allow a “family to hold onto its farm and pass it down through generations without paying any tax” on it, and “the same would be true with small businesses as long as the property remains within the same family.” She argued that eliminating step-up in basis at death would close a “significant loophole.”

Senator Cornyn asked if it is “fair” to individuals, who have established long-term financial plans, to “retroactively change the rules of capital gains.” Secretary Yellen highlighted that Congress has the ability to modify tax laws and “has done so on multiple occasions.” She disagreed with Senator Cornyn’s assessment that the Biden Administration’s proposal to increase taxation of future realization of capital gains “as being a retroactive feature.”

Senator Elizabeth Warren (D-MA) asked if an increase in the federal income tax rate would be sufficient to ensure high-income and low-income individuals pay the same proportion of their wealth in taxes. Secretary Yellen expressed support for raising the rate on capital gains and eliminating step-up in basis to ensure “all those capital gains are taxed and not allowed to be permanently” non-taxable. Senator Warren then asked if “multi-billionaires” pay taxes when they borrow against their wealth. Secretary Yellen noted “anyone can borrow against assets but billionaires have lots to borrow against,” so “to the extent that they avoid capital gains by selling assets to support those spending needs they avoid paying a capital gains tax ... so that seems like unfair tax avoidance.” Senator Warren asked if low-income individuals and high-income individuals have the same options to “accumulate wealth tax-free.” Secretary Yellen answered in the negative, and claimed President Biden’s proposal would “end many of these options for very rich individuals in a whole variety of different ways,” such as closing the “carried interest loophole,” increasing capital gains taxes, and eliminating step-up in basis at death.

Inflation

Senator Grassley asked about Treasury’s expectations for inflation. Secretary Yellen asserted the current “burst of inflation reflects the difficulties of reopening an economy that has been shut down,” including “huge swings in spending patterns” and bottlenecks. She concurred that fiscal policy needs to “be put on a responsible course,” and President Biden’s budget proposal is “fiscally responsible.”

Senator Thune asked if current inflation is transitory or long-term. Secretary Yellen claimed there are “important transitory influences at work,” and she does not anticipate these inflationary trends to be permanent. She added that the pandemic caused prices to collapse at its onset, so “as the economy is opening back up prices are moving up towards normal levels.” Senator Thune asked if Treasury still anticipates a two percent inflation rate for the year. Secretary Yellen responded

Treasury will conduct a mid-session review and will release a new forecast, but “certainly inflation will be higher than that for this year.”

Rep. Adrian Smith (R-NE) asked about the impact of inflation on lower income Americans and retirees. Secretary Yellen explained “for most of the last decade” inflation has been under the Federal Reserve’s (“Fed”) two percent goal, and she argued there are “costs to inflation being too low.” Specifically, she stated the Fed has “been forced to rely on asset purchases and unconventional policies” because interest rates have been at zero levels, which “erode[s] the ability to use monetary policy to actively support the economy.”

Corporate Tax Rate

Senator Bob Menendez (D-NJ) asked what the current average effective corporate tax rate is in the U.S. Secretary Yellen stated the U.S.’s effective corporate tax rate is “a little bit under 26 percent,” and noted that other G7 countries have an effective corporate tax rate of “close to 28 percent.” Senator Menendez asked if the TCJA reduced tax revenue by \$1.5 trillion. Secretary Yellen concurred the loss in tax revenue “was very expensive,” and argued there was no “evidence of a boom in investment spending or productivity that resulted” from the TCJA. She claimed that in addition to the COVID-19 pandemic, the TCJA is “part of the reason that our deficits are as large [as they are].”

Senator Pat Toomey (R-PA) asked if there was any corporate inversion of a “significant American multinational company” as a result of the TCJA. Secretary Yellen explained the Biden Administration is concerned about the “shifting of profits to tax havens where the U.S. loses the ability to gain the tax revenue and competition from firms.” She concluded “we do have to raise tax revenue in order to be able to finance important expenditures that make us more productive.” Senator Toomey then asked if GILTI is increased to 21 percent will Treasury allow the full crediting of foreign taxes paid rather than the partial crediting that occurs under the current law. Secretary Yellen responded “I believe we have not changed that” provision, but she stated she will follow-up with specifics.

Chairman Richard Neal (D-MA) asked Secretary Yellen who “benefitted most” from the TCJA. Secretary Yellen claimed the TCJA “reduced government revenues ... by about \$1.5 trillion over a decade,” and argued “distributional analyses of the legislation showed very clearly that it provided the largest tax cuts to those at the top of the income distribution.” She added that President Biden’s tax proposal invests in research, education, childcare, infrastructure, and clean energy that will be paid for over 15 years “by reforming the tax system.” Specifically, she stated President Biden’s tax reform proposal includes “modestly increasing tax rates on those who can most afford to pay more taxes;” “reforming the international tax rules to end the profit shifting and offshoring incentives of current law;” and “investing in the IRS to improve compliance with our tax laws.”

Financial Crimes Enforcement Network (FinCEN)

Senator Catherine Cortez Masto (D-NV) asked how President Biden’s budget request will ensure the Financial Crimes Enforcement Network (FinCEN) meets the requirements of the Financial Crimes Enforcement Network Improvement Act. Secretary Yellen responded she will have to follow-up with specifics, but noted there is a “significant request in the budget” for FinCEN. Specifically, FinCEN needs funds to construct the beneficial ownership (BO) database that was established by the National Defense Authorization Act (NDAA).

China

Senator Ben Sasse (R-NE) asked if it is pertinent to begin financially and technologically decoupling the U.S. from the Chinese Communist Party (CCP) “over the next couple years.” Secretary Yellen stated the Biden Administration “certainly recognizes that China is our most serious competitor and that it poses challenges to our security and democratic values.” She noted that the Committee on Foreign Investment in the United States (CFIUS) already denies China the ability to make investments in the U.S. that would “compromise national security.” However, she expressed apprehension about being “too broad in our policies” towards China because “we can lose the benefits that come from having globally integrated technology systems where advances in one country benefit countries worldwide.” She also noted that “many allies would be reluctant to stop doing business in China.” Senator Sasse argued that there are some technologies that are “uniquely dangerous” to national security, and asked what technologies Secretary Yellen views as threats to national security. Secretary Yellen highlighted individual data monitoring and collection by China as a risk to national security, and

acknowledged that in regard to certain technologies the U.S. “will have to decouple [from China] to protect national security.”

501(c)3 and 501(c)4 Corporations

Senator Sheldon Whitehouse (D-RI) argued there has been “political abuse” with respect to 501(c)3 and 501(c)4 corporations, and asked if Treasury will investigate the instances where 501(c)3 and 501(c)4 forms “were patently inconsistently filed with election agencies.” Secretary Yellen agreed that “we need to get dark money out of politics and this is an important area in learning about this issue.” She asserted this space “deserves serious study,” as the IRS previously “has been prohibited from issuing guidance in this area.”

Supply Chain Resiliency

Senator Maggie Hassan (D-NH) asked how Treasury is supporting broader efforts to combat unfair trade practices and strengthen supply chains. Secretary Yellen acknowledged that “in too many circumstances unfair foreign subsidies and trade practices have adversely affected U.S. competitiveness and impacted manufacturing unfairly.” She also highlighted USTR’s newly established “strike force” that is tasked with identifying unfair trade practices that have “eroded U.S. supply chains.”

Cybersecurity

Senator Daines noted the Financial Stability Oversight Council (FSOC) recently outlined three key priorities, including vulnerabilities in non-bank financial intermediation, climate change, and treasury market resilience. Senator Daines then expressed concern that Treasury’s focus on “longer-term risks associated with climate change is coming at the expense of the major ... immediate threats” of cyber and ransomware attacks. He then asked why cybersecurity was not identified as one of the top three priorities for FSOC. Secretary Yellen contended that cybersecurity is a “huge priority,” and Treasury “has long taken the lead in trying to pull together the financial sector to exchange information and to raise preparedness.” She added that cybersecurity is “one of the most important focuses these days in supervision of banking organizations,” and the Federal Financial Institutions Examination Council (FFIEC) has a comprehensive program focused on data security.

Gas Tax

Senator John Barrasso (R-WY) stated President Biden has rejected indexing the gas tax because it “would certainly raise gas prices at the pump,” however, he argued President Biden’s budget proposal to remove current tax deductions for oil and gas producers would also increase gas prices. Secretary Yellen responded that President Biden “sees no policy justification for subsidizing fossil fuels,” and she noted the proposal includes subsidies for green energy production. She claimed that recent studies on the impact of phasing out fossil fuel subsidies have found the “impacts are generally ... small.”

State and Local Tax (SALT) Cap

Ranking Member Brady argued removing the current state and local tax (SALT) cap would create a “huge tax windfall for the wealthy,” and asked if President Biden supports an inclusion of the SALT cap removal in an infrastructure package. Secretary Yellen responded President Biden has not made a proposal with respect to SALT. However, she added President Biden “recognizes that [the SALT cap] is a tremendous concern in a number of states and wants to work with Congress to see if there is a way to mitigate the harms that it has caused.” Ranking Member Brady pressed Secretary Yellen whether or not President Biden would support a SALT cap removal even if it currently is not included in any infrastructure proposal. Secretary Yellen stated she would not “negotiate here on behalf of the president,” and reiterated President Biden’s desire to work with Congress on a bipartisan basis.

Rep. Bill Pascrell (D-NJ) asked Secretary Yellen if she would commit to providing his “constituents’ relief” from the SALT cap. Secretary Yellen claimed the Biden Administration “certainly wants to work with you and other members of Congress to figure out what is the best way to go about doing that.”

Tax Credits

Senator Todd Young (R-IN) asked if the Biden Administration would support maintaining the deductibility of businesses’ research and development (R&D) costs through Section 174 of the Internal Revenue Code. Secretary Yellen noted promoting innovation is a “critical priority” for President Biden, and agreed that “continuing to allow firms to expense R&D

rather than shifting to amortizing could be one very effective way to bring [innovation] about.” She added that “more generous R&D tax credits” could be another tool to promote innovation. Senator Young then inquired why the continuation of this R&D tax credit is not included in President Biden’s proposal. Secretary Yellen explained President Biden’s proposal includes a repeal of the foreign-derived intangible income (FDII) deduction and would repurpose these funds to support R&D.

Rep. Danny Davis (D-IL) commended the Biden Administration’s work on modernizing the Child Tax Credit (CTC), Child and Dependent Care Tax Credit, and the Earned Income Tax Credit (EITC). However, he emphasized the importance of an “advanceable, refundable renters’ credit,” making the Adoption Tax Credit (ATC) refundable, and expanding the American Opportunity Tax Credit. He then asked if the Biden Administration is open to “enhancing other refundable tax credits to help struggling workers and families.” Secretary Yellen concurred that housing affordability is a “key challenge,” and the Biden Administration has proposed expanding low-income housing tax credits. She added the ATC and American Opportunity Tax Credit are “also important areas that are of high priority,” and she agreed to work with the Committee “on these matters.”

Rep. Suzan DelBene (D-WA) highlighted her bill, the Affordable Housing Credit Improvement Act, which is intended to not only build new affordable housing units but also preserve current affordable housing. She then asked Secretary Yellen if the Biden Administration would support this legislation. Secretary Yellen claimed she would work with Rep. DelBene on this proposal, while also highlighting the inclusion of a “significant increase in low-income housing tax credits” and “rehabbing of many [affordable] housing units” in President Biden’s budget proposal.

Rep. Gwen Moore (D-WI) highlighted her proposal to expand the EITC to include uncompensated care work that individuals provide to family members. Secretary Yellen stated the “idea of extending the EITC is an interesting one,” and she explained the American Families Plan provides support to workers without children. She concluded that there is “undoubtedly more to do and this is a very important area.”

Rep. Dan Kildee (D-MI) asked if the Biden Administration would be receptive of a “highly targeted tax credit for the most chronically distressed communities.” Secretary Yellen asserted there are “many pieces” of the President’s budget proposal that are intended to support “distressed communities,” such as a proposed tax credit that promotes “greater opportunities” for distressed and low-income communities.

Rep. Steven Horsford (D-NV) asked Secretary Yellen to expound on the Green Book’s proposal to create a “novel pool of low-income housing tax credits which are allocated to states based upon a formula determined by the [Treasury] secretary.” Secretary Yellen explained a portion of the housing tax credits would be allocated to opportunity zones or neighborhoods that “indicate they have the potential to really have the conditions in place to help kids succeed” and a “demonstrated ability to improve on their fortunes.” She concluded this proposal would be “particularly beneficial for people living in poverty areas.”

Labor Force Participation Rate

Chairman Neal highlighted the disproportionate decline in labor force participation rate for women, and asked how much of this drop is attributable to the COVID-19 pandemic versus “longer term mechanisms that underlie structural inequities.” Secretary Yellen asserted the drop in women’s labor force participation rate can be attributed to both, as women’s labor force participation rate has been in long-term decline prior to the onset of the pandemic. She added that this disparate trend is the “motivation behind much of what is in the American Families Plan,” such as paid leave and affordable childcare.

--

Please click [here](#) for the archived Senate Finance Committee hearing, and [here](#) for the archived House Ways and Means Committee hearing.