

Congress of the United States
House of Representatives
Washington, DC 20515-3601

March 9, 2023

The Honorable Janet L. Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Yellen,

I once again write to request information related to the Organization for Economic Co-operation and Development (OECD) Pillar 1 Agreement.

For over two years, Republicans on the Committee on Ways and Means have sought information to evaluate the Pillar 1 proposal pending at the OECD. Treasury has failed to respond to these requests with any information upon which Members could rely for an adequate review of the Pillar 1 proposal. It is not acceptable for Treasury to continue to withhold this information, particularly with the Biden Administration's attempt to override Congress's tax-writing authority in the course of its negotiations with foreign governments at the OECD.

Specifically, in April 2021, Committee Republicans requested that Treasury provide revenue impact estimates and estimates of which companies would be in the scope of the Pillar 1 agreement. When Treasury failed to respond to the April 2021 request, Representative Ferguson repeated the request for these estimates during your testimony before the Committee on the President's FY2022 Budget Request on June 17, 2021.¹ Representative Ferguson also submitted questions for the record requesting this information.² In November 2021, Treasury stated, "We expect Pillar One (sic) will be roughly revenue neutral for the U.S. fisc, and will not materially reduce U.S. tax revenues."³ However, Treasury did not provide any information about its methodology or quantitative estimates for Republican Members to review.

During your testimony before the Committee on the President's FY2023 Budget Request on June 6, 2022, then Ranking Member Kevin Brady again repeated the request for Treasury to

¹ H. Comm. on Ways and Means Hearing, *Hearing on the President's Proposed Fiscal Year 2022 Budget with Treasury Secretary Janet Yellen* (June 17, 2021), <https://gop-waysandmeans.house.gov/event/hearing-on-the-presidents-proposed-fiscal-year-2022-budget-with-treasury-secretary-janet-yellen/>.

² H. Comm. on Ways and Means Hearing, *Hearing on the President's Proposed Fiscal Year 2022 Budget with Treasury Secretary Janet Yellen*, Questions for the Record – Submitted by Rep. Drew Ferguson.

³ Response from U.S. Department of Treasury to H. Comm. on Ways and Means Hearing, *Hearing on the President's Proposed Fiscal Year 2022 Budget with Treasury Secretary Janet Yellen*, Questions for the Record.

share its economic and revenue impact analysis of Pillar 1 with Congressional tax writers.⁴ Despite having claimed six months earlier that Treasury’s analysis showed “Pillar One (sic) will be roughly revenue neutral for the U.S., you replied, “Until some final details of Pillar 1 are negotiated, it’s not possible to come up with an estimate to share with the Committee.” Questions for the record were again submitted, requesting this information,⁵ and Treasury’s responses to those questions again failed to include the requested estimates.⁶

In yet another effort to obtain information about the Biden Administration’s surrender of U.S. taxing rights under Pillar 1, then Ranking Member Brady and Representative Hern filed a Resolution of Inquiry directing the Secretary of Treasury to provide certain documents in the Secretary’s possession to the U.S. House of Representatives relating to the impact of the OECD Pillar 1 agreement on the U.S. Treasury.⁷ Regrettably, on September 20, 2022, the Committee on Ways and Means unfavorably reported H. Res. 1269.

Given the lack of a response from the Administration, then Ranking Member Brady and Representative Hern followed up with a letter to you on October 27, 2022, reiterating the request.⁸ Treasury responded on November 22, 2022, with a one-page response, yet again asserting, “any U.S. revenue impact would be modest to non-existent.”⁹ The response went on to note that:

With respect to company inclusion estimates, the parameters for any agreement would apply to future years, for which we simply cannot know with certainty which companies would or would not meet the parameters. As to the revenue impact on other jurisdictions, undertaking a full analysis on that question would require data the Treasury Department does not have. Moreover, to our knowledge, no country has published interim data of its estimates of Pillar One reallocation or provided such estimates before Pillar One negotiations are complete, presumably because doing so could undermine that country’s national interests and its negotiating position.¹⁰

As you know, Committee Republicans have never sought publication of the economic and revenue impact assessments of Pillar 1 that Treasury has generated and discussed internally. Rather, the request is that Treasury provide those assessments to Members of Congress who hold sole tax-writing authority under the Constitution. Committee Republican staff have made clear to

⁴ H. Comm. on Ways and Means Hearing, *Hearing on President’s Proposed Fiscal Year 2023 Budget with Treasury Secretary Janet Yellen* (June 8, 2022), <https://gop-waysandmeans.house.gov/event/hearing-on-presidents-proposed-fiscal-year-2023-budget-with-treasury-secretary-yellen/>.

⁵ H. Comm. on Ways and Means Hearing, *Hearing on the President’s Proposed Fiscal Year 2022 Budget with Treasury Secretary Janet Yellen*, Questions for the Record – Submitted by Ranking Member Kevin Brady.

⁶ Response from U.S. Department of Treasury to H. Comm. on Ways and Means Hearing, *Hearing on President’s Proposed Fiscal Year 2023 Budget with Treasury Secretary Janet Yellen*, Questions for the Record.

⁷ H. Res. 1269, 117th Cong. (2022), <https://gop-waysandmeans.house.gov/wp-content/uploads/2022/09/H.-RES.-1269.pdf>.

⁸ Letter from The Hon. Kevin Brady, Ranking Member, Comm. on Ways and Means, and The Hon. Kevin Hern, Comm. on Ways and Means, to The Hon. Janet Yellen, Sec’y, U.S. Department of the Treasury (Oct. 27, 2022).

⁹ Letter from Jonathan C. Davidson, Assistant Sec’y for Legislative Affairs, U.S. Department of The Treasury, to The Hon. Kevin Brady, Ranking Member, Comm. on Ways and Means (Nov. 22, 2022).

¹⁰ *Id.*

your staff that a private briefing, hosted by Treasury, would be an acceptable forum to receive this critical information. Your failure to respond to reasonable requests from Committee Republicans is disappointing and unacceptable.

House Republicans will hold the Biden Administration accountable for its lack of transparency and its attempts to circumvent Congress's Constitutional authority to enact U.S. tax laws. I reiterate the request for information in H. Res. 1269. I also request that Treasury provide tax revenue modeling data and reports estimating the economic impact of the OECD Pillar 2 agreement on the United States Treasury to the Committee on Ways and Means. I look forward to your prompt compliance with the request by March 24, 2023.¹¹

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin Hern", written over a horizontal line.

Kevin Hern
Committee on Ways and Means

¹¹ H. Res. 1269, 117th Cong. (2022), <https://gop-waysandmeans.house.gov/wp-content/uploads/2022/09/H.-RES.-1269.pdf>.