

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

October 27, 2022

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

Dear Secretary Yellen,

We write to request that you preserve all documents and communications in your custody related to the Organisation for Economic Co-operation and Development (OECD) Pillar One Agreement. Over the past year and a half, congressional Republicans have repeatedly sought information to better evaluate the proposal. These requests have included revenue and company inclusion estimates, projections of what companies will be in scope, what jurisdictions will be, on net, losing tax rights, and what jurisdictions will be, on net, gaining taxing rights under the current proposals.

Specifically, in April 2021, Committee on Ways and Means Member offices requested that the Treasury Department provide fiscal revenue impact estimates and estimates of what companies would be in the scope of this agreement. After Committee staff did not receive information from the Department about such estimates, Representative Ferguson repeated the request for these estimates at the June 17, 2021, budget hearing.¹ Representative Ferguson also submitted questions for the record requesting this information.² In November 2021, the Treasury Department responded by stating that it “expects Pillar One will be roughly revenue neutral for the U.S. fisc, and will not materially reduce U.S. tax revenues.”³ Despite this assertion, the Department did not provide any information about its methodology or quantitative estimates for the Committee to review.

At the June 6, 2022, budget hearing, Committee on Ways and Means Ranking Member Brady repeated the request for revenue estimates.⁴ Once again it was stated that the Department believes Pillar One will be revenue neutral, but the requested estimates were not provided.

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.

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/>.

Similar to the June 2021 budget hearing, questions for the record were submitted requesting this information.⁵ Responses to those questions again failed to include the requested estimates.⁶

In an effort to obtain information about how much U.S. corporate taxing rights will be sent overseas by the Biden Administration for international tax negotiations, 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 One agreement on the U.S. Treasury.⁷ Unfortunately, on September 20, 2022, the Committee on Ways and Means unfavorably reported H. Res. 1269.

The lack of a sufficient response and information from the Administration to date is disappointing and unacceptable. Transparency is essential because it promotes accountability and provides information for Congress and the American people about what the federal government is doing. The American people deserve to know how their government works and how decisions are being made, and congressional oversight is especially critical when the risks of such a decision by the Administration are high.

In addition to its impact on transparency and accountability, the Administration's refusal to provide Congress with the information it requested will result in negative impacts on Congress' ability to effectuate policy. As the branch of government responsible for prescribing tax policy, it is essential that Congress receive revenue and company inclusion estimates. To evaluate the proposal, Congress needs to know what companies will be affected, what jurisdictions will be losing tax rights, and what jurisdiction will be gaining taxing rights under the current proposals. Congress should understand where U.S. companies may be sending profit taxing rights overseas and how it could factor into larger geopolitical considerations. It is wholly impossible for Congress to do its job with regards to Pillar One without an understanding of the proposed shifts of inflows and outflows. In addition, Congress cannot offer approval or advise the Administration on what Congress would find acceptable without this information.

Therefore, despite the Administration's inadequate response to our repeated requests for this information, we reiterate our requests as made in our June 2021 and June 2022 questions for the record, and we request that the Administration provide the information requested in H. Res. 1269, which are attached here for your reference. Moreover, we write to insist that you take all appropriate measures to collect and preserve all documents, communications, and other records that are relevant to the OECD Pillar One agreement.

Please provide a response to these requests and confirm that you have taken actions to preserve documents related to this matter by November 10, 2022. If you have any questions or

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>.

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wish to discuss the request, please contact Sean Clerget of the Ways and Means Committee staff at (202) 225-4021.

Sincerely,

A handwritten signature in blue ink that reads "Kevin Brady". The signature is stylized with a large "K" and "B".

Kevin Brady
Republican Leader
Committee on Ways and Means

A handwritten signature in blue ink that reads "Kevin Hern". The signature is cursive and fluid.

Kevin Hern
Committee on Ways and Means