The Honorable Max Baucus
Chairman
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

January 16, 2014

Dear Chairman Baucus,

The international tax reform discussion draft rightly identifies the need to stop corporations from shifting profits to offshore tax havens to avoid taxes. Unfortunately, the proposal falls short in three critical ways and leaves room for the offshoring of jobs and profits to continue:

1. **It does not sufficiently end incentives for multinational corporations to shift profits offshore**, which costs taxpayers an estimated $90 billion per year and creates an uneven playing field for small and domestic businesses.
2. **It is revenue neutral, earmarking all the revenue raised from closing loopholes for reductions in the corporate tax rate.** With federal revenue from corporations hovering at multigenerational lows, precisely because of the offshore profit shifting incentives, this is unacceptable.
3. **It should hold corporations accountable to report their profits and revenues in a consistent manner to government, shareholders and the public.**

Corporate tax reform must stop allowing companies to defer paying taxes on foreign profits, and tax those profits at the same rate as domestic profits, to eliminate incentives to shift profits to low-tax jurisdictions. If companies were taxed right away and at the same rate on income regardless of where the corporation reported it was earned, there would not be an incentive to use accounting schemes to make domestic profits appear on the books of companies in tax havens. "Double taxation" is not an issue because the companies already collect foreign tax credits for what they've paid to other countries. This simple reform would save taxpayers nearly $600 billion, according to the Joint Committee on Taxation.[i]

Levying a minimum tax on foreign profits, as the discussion draft proposes, has some potential to collect additional revenue under certain circumstances. However, setting the minimum international tax rate below the domestic rate would preserve the incentive to move profits offshore, perpetuating one of the fundamental flaws with our corporate tax system.

Option Z of the discussion draft suffers from the additional fault of retaining the distinction between "active" and "passive" income. This complexity makes the tax system harder to administer and history has shown us that corporations figure out ways to get around these distinctions to minimize their tax bill.

The discussion draft does deserve praise for closing some of the most egregious offshore loopholes in our current system. One of the most important reforms is ending "check-the-box," which lets multinational companies deem foreign subsidiaries – typically in tax havens – to be "disregarded entities" for tax purposes. This reform is estimated to save taxpayers $80 billion over the next decade according to the House Budget Committee. [ii]

Corporate tax reform needs to raise revenue. Corporations benefit from the operation of government just as individuals do (and more so in some cases due to myriad tax benefits and lucrative contracts) and should be expected to contribute to financing our democracy, public services and rule of law. However the corporate share of federal revenue was just eight percent in 2011, having declined by more than 60 percent in the last 50 years. [iii]

Due to huge loopholes and other factors, dozens of big corporations pay no federal income taxes, while reaping billions of dollars in profits. According to the Government Accountability Office, corporations pay just a 12.6 percent effective tax rate, far below the statutory rate of 35%.[iv]

Corporate tax reform must hold corporations accountable to report their profits and revenues in a consistent manner to government, shareholders and the public. Companies should have to report basic information about sales, employees, and assets on a country-by-country basis. Having this information available will allow tax authorities to more effectively enforce the law, and will give shareholders a full picture of the companies they invest in.

There is broad support from diverse constituencies for putting an end to offshore tax dodging and making sure corporations pay their fair share. Public opinion is clear. A poll done by Hart Research Associates found that nearly 80 percent of Americans favor closing "tax loopholes to ensure that American corporations pay as much on foreign profits as on profits generated in the United States." [v]

Meanwhile governments at all levels, here and around the world, have cut programs and jobs that are critical to economic recovery and growth. Corporations should not be exempt from contributing to reducing the deficit or funding public priorities. And Congress should not ignore the facts and the public interest when it comes to corporate tax reform.

Sincerely,

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[i] Joint Committee on Taxation, "Estimated Revenue Effects of S. 3018, the "Bipartisan Tax Fairness and Simplification Act of 2010," November 2, 2010. http://www.wyden.senate.gov/download/joint-committeeon-taxation-estimated-score-of-the-bipartisan-tax-fairness-and-simplification-act-of-2010

[ii] http://democrats.budget.house.gov/sites/democrats.budget.house.gov/files/12.05.13%20Budget%20Plan.pdf

[iii] Office of Management and Budget, http://www.whitehouse.gov/omb/budget/Historicals

[iv] U.S. Government Accountability Office: Corporate Income Tax: Effective Tax Rates Can Differ Significantly from the Statutory Rate http://www.gao.gov/products/GAO-13-520

[v] http://www.americansfortaxfairness.org/polls/2013/11/08/atf-oct-2013-polling-materials/