

## Democratic senators urge expanded regulatory action to ‘increase tax fairness’

Four Democratic senators this week urged the Treasury Department to “proactively use its rulemaking authority” to close what they describe as “loopholes that create inconsistency and unfairness in our tax system and threaten our government’s ability to raise important revenue.”

In an October 2 letter to Treasury Secretary Janet Yellen and Internal Revenue Service Commissioner Daniel Werfel, the four lawmakers—Finance Committee members Elizabeth Warren, D-Mass., and Sheldon Whitehouse, D-R.I., along with Sens. Chris Van Hollen, D-Md., and Bernie Sanders, I-Vt.—argued that the Biden administration made significant strides in advancing tax fairness through provisions in the Inflation Reduction Act (P.L. 117-169) that, among other things, impose a book-minimum tax on corporations that report at least \$1 billion in profits; impose an excise tax on corporate stock buybacks; and provide a new mandatory funding stream that allows the IRS to enhance its enforcement programs to curb tax avoidance by large corporations, complex partnerships, and ultrawealthy individuals.

**URL:**  
<https://www.warren.senate.gov/imo/media/doc/2023.10.02%20Letter%20to%20IRS%20and%20Reasury%20on%20Proactive%20Rulemaking1.pdf>

**URL:** <https://www.congress.gov/117/plaws/publ169/PLAW-117publ169.pdf>

The senators observed, though, that other parts of the Biden administration’s tax policy agenda—for example, proposals to close “tax loopholes for billionaires,” reverse certain provisions in the Tax Cuts and Jobs Act of 2017 (TCJA, P.L. 115-97) that they say favor corporations and high-wealth individuals, and enact a 15 percent global minimum tax consistent with the OECD’s Pillar Two initiative—have been blocked, sometimes by congressional Republicans and sometimes by fellow Senate Democrats.

**URL:** <https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf>

Given the limited prospects for legislative action on these priorities in the near term, the senators urged the administration to “focus on additional tools at its disposal to strengthen tax fairness,” and use its existing statutory authority to take regulatory action to “improve the implementation of previously passed legislation”—including regulations implementing provisions in the TCJA that they contended “lacked sound statutory basis and added new loopholes.”

The senators specifically called on the Treasury Department to issue regulations and other guidance to:

- Address “abuses for ultra-wealthy families and dynastic wealth, including to police valuation games, perpetual dynasty trusts, and transfers of foreign assets”;
- Ensure that large multinationals “pay their fair share on their subsidiaries’ passive earnings”; and
- Ensure that “fund managers and other business owners pay their fair share of payroll taxes.”

Taking these actions “would build on the administration’s already-strong history of using its executive authority to push policies that help American families and increase economic fairness . . .,” they wrote.

The senators requested that Treasury provide a staff-level briefing on its statutory authority to revisit guidance related to previously enacted legislation and its rulemaking agenda for doing so by November 2, 2023.

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