Senator Elizabeth Warren
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******As Prepared for Delivery******

Change is in the air in Washington. The lobbyists are swarming on Capitol Hill. The buzz is everywhere: Congress is going to revise the corporate tax code. The time is nearly here.

The lobbyists have a pretty strong elevator pitch. It goes like this:

> US corporations are paying too much in taxes. The top corporate tax rate is 35%, which is much higher than the rest of the developed world, and it's forcing US corporations to flee abroad. The solution is to slash corporate rates across the board.

The story of over-taxation is everywhere – told and re-told by lobbyists for giant U.S. corporations and their friends in Congress – and promoted by more than one Republican candidate for President. Here's just a sampling:

Ben Carson: "our government is driving businesses to other countries" because "our corporate tax rate is the second highest in the world."[1]

Donald Trump: our multinational corporations can't compete because we have the "worst [corporate tax] rate in the industrialized world."[2]

Marco Rubio: the U.S. imposes a *double* tax on the corporate earnings of U.S. multinationals, "hold[ing] back our nation's potential to compete around the globe."[3]

There's only one problem with the over-taxation story: it's not true. There's a problem with the corporate tax code, but this isn't it.

Let's start with the claim that US corporations pay more than their foreign counterparts. It's true, the highest nominal corporate tax rate, on paper, is 35%. But hardly anybody actually pays that rate. Multiple studies have estimated the average effective federal tax rate for U.S. corporations – the tax rate corporations actually pay to the U.S. government after they take

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[1] Dr. Ben Carson, *America the Beautiful, p.122* , January 2012.
[2] Donald J. Trump, "Tax Reform That Will Make America Great Again," https://www.donaldjtrump.com/positions/tax-reform
[3] "A Pro-Growth, Pro-Family Tax Plan for the New American Century," https://marcorubio.com/issues-2/rubio-tax-plan/

advantage of all of the deductions, exceptions, and credits –as only 20 percent.[4] That's right in the middle of corporate taxes paid in the rest of the world—right in the middle.[5]

So the tax rate is about average, but what about the trend line? Are corporate taxes getting more burdensome, as lobbyists claim? Nope. In fact, there's been a 10-point *decline* in effective tax rates for US corporations between 1998 and 2013.[6]

But there's a deeper lie hidden right at the center of the elevator pitch. The tax code is so tangled up with exceptions and credits that, for some of the biggest companies, the effective federal income tax rate is zero.[7] That's right – not 35%. Not 20%. Zero percent.

For example, over a five-year period, Boeing, General Electric, and Verizon paid nothing in net federal income taxes. These three Fortune 500 companies reported nearly $80 billion in combined profits and actually got tax rebates from the federal government.

So what's the problem with our corporate tax code? It's not that taxes are far too high for giant corporations, as the lobbyists claim. No, the problem is that the revenue generated from corporate taxes is far too low.

This trendline is unmistakable. Over the past sixty years, corporations have contributed a smaller and smaller and smaller share of the costs of running the government. Back in the 1950's, corporations contributed about $3 out of every $10 in federal revenue. Today corporations contribute just $1 out of every $10.[8]

And what about other countries? Of all the countries in the OECD, 75% of them collected higher corporate tax revenues as a share of GDP than we do.[9] That means three-quarters of all developed countries require corporations to contribute more than the US does. Japan, Canada, the UK – these are just a few of the countries that collect a bigger share of corporate tax revenue than the U.S.

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[4] Gabriel Zucman, Journal of Economic Perspectives, Taxing Across Borders: Tracking Personal Wealth and Corporate Profits (Fall 2014), Figure 5 at 132-133. http://gabriel-zucman.eu/files/Zucman2014JEP.pdf; *See also*, Kevin S. Markle and Douglas A. Shackleford, "Cross-Country Comparisons of Corporate Income Taxes," working paper, February 2011.

[5] Kevin S. Markle and Douglas A. Shackleford, "Cross-Country Comparisons of Corporate Income Taxes," working paper, February 2011.

[6] Gabriel Zucman, Journal of Economic Perspectives, Taxing Across Borders: Tracking Personal Wealth and Corporate Profits (Fall 2014), Figure 5 at 132-133. http://gabriel-zucman.eu/files/Zucman2014JEP.pdf

[7] Citizens for Tax Justice, "The Sorry State of Corporate Taxes," February, 25, 2014. http://www.ctj.org/corporatetaxdodgers/sorrystateofcorptaxes.php#Whos%20Paying%20and%20Whos%20Note

[8] Office of Management and Budget, Table 2.2., Percentage Composition of Receipts by Source: 1934–2020: https://www.whitehouse.gov/sites/default/files/omb/budget/fy2016/assets/hist02z2.xls.

[9] CTJ, "The U.S. Collects Lower Level of Corporate Taxes Than Most Developed Countries" http://ctj.org/ctjreports/2015/04/the_us_collects_lower_level_of_corporate_taxes_than_most_developed_countries.php .

Fortune 500 companies proudly proclaim that they are making record-breaking profits – then hire armies of lawyers to make sure they don't pay taxes on those profits.[10] I could give you a dozen examples of how different tax dodges work: check-the-box, reverse hybrid mismatches, inversions, earnings stripping. But before you all run for the exits, I want to highlight just one: attributing corporate income to subsidiaries set up in offshore tax havens. As of last year, nearly three-quarters of all Fortune 500 companies operated subsidiaries in tax havens.[11] Based on filings with SEC**,** these 358 companies reported at least 7,622 tax haven subsidiaries. For the math-phobes in the room, that's more than 21 tax haven subsidiaries for each Fortune 500 company that's also in the tax-dodge business.

The savings are huge. The Tax Dodgers that shift money to these low-tax jurisdictions are, on average, paying effective tax rates of just 3% on their tax-haven profits.[12] Not the 35% of the elevator pitch, but a nice little 3% tax rate.

The amount of money tucked away in tax havens is staggering. Together, U.S. corporations have $2.1 trillion in untaxed profits sitting offshore.[13] And once again, look at the trendline. In just the past ten years, the amount of untaxed offshore profit has increased nearly five-fold.[14] In other words, one of the hottest investments in America in the past decade hasn't been biotech or Big Oil—it's been tax lawyers.

The money sheltered overseas is now about the same as the combined total earnings of all U.S. corporations in 2013.[15] But that tax bonus isn't shared evenly. No, the game is rigged, and it is rigged for the really big guys. Out of the millions of businesses in the US, just 50 corporations hold 75% of the $2.1 trillion in untaxed offshore profits. And even in that rarefied air, there's a Tax Dodger Hall of Fame. Just 10 American companies hold more than a third of all those offshore profits.[16]

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[10] Floyd Norris, New York Times, "Corporate Profits Grow and Wages Slide," April 4, 2014. http://www.nytimes.com/2014/04/05/business/economy/corporate-profits-grow-ever-larger-as-slice-of-economy-as-wages-slide.html?_r=0

[11] http://ctj.org/ctjreports/2015/10/offshore_shell_games_2015.php#.VjPqNberRhE

[12] Gabriel Zucman, *Taxing Across Borders: Tracking Personal Wealth and Corporate Profits,* Journal of Economic Perspectives—Volume 28, Number 4 (Fall 2014), Figure 2, p. 128. http://gabriel-zucman.eu/files/Zucman2014JEP.pdf **.** And even if the income from non-tax haven foreign subsidiaries is added in, Fortune 500 companies are still only paying a 6% to 10% average effective tax rate on the $2.1 trillion in profits that are offshore. Credit Suisse, *Parking A-Lot Overseas* (March 17, 2015), p. 4. http:/bit.ly/1dzsUSj; Kimberly A. Clausing, *The Nature and Practice of Capital Tax Competition (*April 5, 2015), p. 10. This is 2011 data. http://ssrn.com/abstract=2489224; Citizens for Tax Justice, *Fortune 500 Corporations Are Likely Avoiding $600 Billion in Corporate Tax Using Offshore Tax Havens* (September 3, 2015).

[13] Credit Suisse, *Parking A-Lot Overseas* (March 17, 2015), Exhibit 5, p. 8. http://bit.ly/1dzsUSj

[14] Credit Suisse, *Parking A-Lot Overseas* (March 17, 2015), Exhibit 4, p. 8. http://bit.ly/1dzsUSj

[15] Floyd Norris, New York Times, "Corporate Profits Grow and Wages Slide," April 4, 2014. http://www.nytimes.com/2014/04/05/business/economy/corporate-profits-grow-ever-larger-as-slice-of-economy-as-wages-slide.html?_r=0

[16] Citizens for Tax Justice, *Dozens of Companies Admit Using Tax Havens* (April 1, 2015). http://ctj.org/ctjreports/2015/04/dozens_of_companies_admit_using_tax_havens_1.php#.Ven5KBHBzGc

Here's the kick in the teeth: The average American household pays a federal tax rate of 17.6 percent.[17] The average effective tax rate for an American corporation with fewer than 500 employees is 17.5 percent.[18] Shoot, even Mitt Romney paid 14%. But the biggest American companies are paying far, far less—in many cases, nothing at all. They enjoy all of the benefits of being an American company – but they leave it to families and small businesses to pick up the bill.

For years now, gridlock in Washington has worked in favor of the Tax Dodgers. Despite an occasional exposé in the media, the corporations and their top executives continue to sleep comfortably, secure in the knowledge that they could block any real tax reforms. But now, there is change in the wind. The giant Tax Dodgers themselves are lobbying for change in the tax laws—and they are lobbying hard. They're even signaling they just might be willing to bring some of that sheltered money back to the United States, if we give them a sweet enough deal.

So what's going on? Is this a sudden burst of conscience? Patriotism? Nope – as always, it's all about money. While the US Congress may be asleep at the switch, other countries are waking up to tax dodges – and they are starting to re-write their tax laws.

Many of our global competitors have started cracking down on the infamous levels of tax avoidance by U.S. companies. They know U.S. corporations are shuffling cash through their borders without paying any taxes – and they want their cut. The UK is developing a new tax to go after profits hidden away by US companies.[19] They're calling it "The Google Tax." The European Court of Justice is striking down sweetheart deals for US tech companies and their subsidiaries throughout Europe.[20] The European Commission has been ramping up its tax investigations and has been clawing back tax benefits collected by U.S. corporations.[21] And the G20 just released a sweeping new plan for cracking down on cross-border tax games.[22] There's a move afoot internationally to shut down tax dodges.

Even here in the US, the Treasury Department is entering into Tax Information Exchange Agreements with other countries to uncover hidden cash.[23] And Treasury is also developing new country-by-country reporting requirements that will shine a light on the scams used by Tax Dodgers.

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[17] Tax Policy Center, "Historical Average Federal Tax Rates for All Households," 20 January 2015, http://www.taxpolicycenter.org/taxfacts/displayafact.cfm?Docid=456

[18] Small Business Administration, September 2012, table 4. https://www.sba.gov/sites/default/files/FAQ_Sept_2012.pdf

[19] BBC, "Budget 2015: 'Google Tax' introduction confirmed," 18 March 2015, http://www.bbc.com/news/business-31942639

[20] International Tax Review, "Goods vs. services: ECJ rules against France and Luxembourg in e-books dispute," 6 March 2015, http://www.internationaltaxreview.com/Article/3433726/Goods-vs-services-ECJ-rules-against-France-and-Luxembourg-in-e-books-dispute.html

[21] European Commission, "Commission decides selective tax advantages for Fiat in Luxembourg and Starbucks in the Netherlands are illegal under EU state aid rules," 21 October 2015, http://europa.eu/rapid/press-release_IP-15-5880_en.htm

[22] OECD, "Base Erosion and Profit Shifting," http://www.oecd.org/ctp/beps.htm.

[23] U.S. Department of the Treasury, "Treaties and TIEAs," http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/treaties.aspx

Tax advisors have been sending out panicky alerts, warning that other countries have tumbled to the tax dodge game, and, as a result, the days of single-digit corporate tax rates are coming to an end.

So these giant corporations have suddenly found religion. They say it's time for tax reform. Of course, they plan to write those reforms. Their strategy is simple: tell a story about high U.S. taxes, demand tax cuts from the US Congress, and threaten to leave the US for good if they don't get what they want.

I say it's time to call their bluff. Why? Because I know that tax rates for giant American corporations are far lower than the lobbyists claim. I also know that the tax deals available abroad are disappearing fast. But most of all, I know that America is a great place to do business – and that's worth a lot to these multinational corporations.

We have the world's best workforce – smart, skilled, and hard-working. We have the world's most attractive consumers – hundreds of millions of people who are ready to buy. We have the world's most reliable and transparent legal system. We have the deepest and most liquid capital markets. We have copyright and patent laws that reward innovation.

And look at where the start-ups are going. Fewer than 3 percent of newly started businesses with physical headquarters in the US chose to incorporate in a tax shelter.[24] Tax shelters didn't built the tech sector in Cambridge and Silicon Valley. And tax shelters won't build the next new industry either.

America is a great place do business—and our companies know it. So as we think about fixing our broken corporate tax code, we should bet on America – and focus on the actual problems in our code, not the fake ones pushed by the Tax Dodgers, the lobbyists, and the presidential candidates hoping to attract big corporate contributions.

It's time to reform the tax code, but let's do it right. Here are three guiding principles:

1. Tax reform must substantially increase the share of long-term revenues paid by big corporations – not just over the next five or ten years, but permanently. Our tax system has already been so corrupted by the Tax Dodgers that a revenue-neutral rewrite of our corporate tax laws leaves this country with too little money to operate basic services. If America is going to build 21st century infrastructure, operate 21st Century schools and invest in 21st Century research, then giant corporations must pay a fair share of the cost.

2. Tax reform must level the playing field between small business and big business. Paddy's Lunch in Cambridge doesn't stash profits in Luxembourg, and the Lakota Bakery in Somerville doesn't put money in the Cayman Islands. Salvato Electric in North Billerica can't hire an army of lawyers to set up a "reverse hybrid mismatch" to lower their taxes. These loopholes and gimmicks are available only to giant corporations, and when small

[24] Susan Morse, Tax Haven Incorporation for U.S. Firms: No Exodus Yet, 66 NAT'L TAX J. 395 (2013) (with Eric J. Allen)

businesses have to pick up a disproportionate share of the taxes paid, it's that much harder for them to compete.

3. Tax reform should promote investment in jobs here in the U.S. The loopholes that litter our tax code and allow Tax Dodgers to hide cash overseas also actively encourage multinationals to outsource jobs and invest money abroad. Right now US companies can pay a lower rate by investing overseas instead of in the US, and foreign companies can set up US subsidiaries and strip out profits more easily than local companies. This is nuts. Our tax code should protect jobs and investments at home – period.

These three principles – raise more long-term revenue, level the playing field for small businesses, and invest in jobs here in America – seem pretty simple. Most Americans probably agree with these commonsense ideas. But Congress doesn't talk to most Americans. Congress talks to CEOs and their armies of lawyers and lobbyists who are pushing some genuinely terrible ideas. Consider three tax proposals that are getting the most attention.

First, "deemed repatriation." This is a giant wet kiss for the Tax Dodgers who have already parked $2.1 trillion overseas. Deemed repatriation says bring home the money, but pay only half of what you owe on it. Or, if the kiss isn't wet enough, some are suggesting the repayment rate should be even less than half, maybe around 14%.

Think about what this means. All the small business owners who have been paying their taxes in full can keep right on paying in full. But the Tax Dodgers will get a special deal. Paddy's Lunch gets zip, but Apple would get a tax break of $27 billion. Lakota Bakery gets nothing, but Microsoft would save $18 billion. Bobby Salvato gets zero, but Citigroup would save $7 billion.[25] And what's the total price tag for this juicy smooch? Estimates are in the range of $300 to $400 billion paid by US taxpayers.[26] Right at the moment when other countries are starting to get tough and the Tax Dodgers might finally need to move some of their money back to the United States, Washington's top reform idea is to give them a big tax break.

The second idea is even worse. The idea is to tax overseas income, but to do it at a rate that is lower than US income. So, for example, money earned in the U.S. would have a top tax rate of 35%, while the top rate for money held abroad would be 19%--or less. It's like holding up a giant sign that says "Higher taxes if you invest in the US, lower taxes if you invest abroad." The result would be that every small business and family in America would be subsidizing foreign investments of multinational corporations—which is a great deal for those multinationals and our foreign competitors, but a terrible deal for us.

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[25] Citizens for Tax Justice, "Ten Corporations Would Save $82 Billion in Taxes Under Obama's Proposed 14% Transition Tax," http://ctj.org/ctjreports/2015/02/ten_corporations_would_save_82_billion_in_taxes_under_obamas_proposed_14_transition_tax.php

[26] Citizens for Tax Justice, *Fortune 500 Corporations Are Likely Avoiding $600 Billion in Corporate Tax Using Offshore Tax Havens* (September 3, 2015). http://www.taxjusticeblog.org/archive/2015/09/fortune_500_corporations_are_l.php

The third idea is called an "innovation box." I think of it as the gift for lazy Tax Dodgers. To get this loophole, there's no need to move money around or incorporate subsidiaries in tax havens. Instead, a corporation can just check the innovation box on its tax return and magically pay lower taxes on the earnings it claims came from "innovation." For big pharmaceutical companies and giant tech companies, a provision like this just makes paying taxes—or a chunk of taxes—optional. I strongly support a robust innovation policy – like investing in the NSF and the NIH, funding basic research, and encouraging companies to invest in research—but the innovation box doesn't do a single thing to encourage new innovation.

Lobbyists and lawyers are excited about the prospect of tax reform. Tax nerds are abuzz. But when I look at the details, I see the same rigged game – a game where Congress hands out billions in benefits to big, well-connected corporations, while people who really could use a break – the millions of middle-class families and small businesses that have been squeezed for decades – are left holding the bag. And that's what this tax battle is really about: Who does this country work for? Is it just for the rich and the powerful, those who can hire those armies of lobbyists and lawyers? Or can we make this country work for millions of hard-working people?

This isn't a fair fight. The corporate giants are lined up to make sure tax changes tilt their way. America's working families don't have a zillion-dollar PR team to counter the false claim that corporate taxes are too high. Small businesses don't have a zillion-dollar lobbying organization to fight back against tax giveaways for giant corporations. Mostly what they have is you, the people in this room, the people who report on what's going on in Washington, the people who will hear the elevator pitch over and over and decide whether to repeat it or push back. As tax reform moves forward, I hope that each one of you will pay very close attention.

Thank you.