July 14, 2021

The Honorable Ron Wyden
Chairman of the Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Chairman Wyden:

We write to seek a Committee investigation of the deeply troubling allegations detailed in a ProPublica report released last month that the nation's wealthiest individuals are using a series of tax avoidance strategies to avoid paying income taxes.[1] This report "demolishes the cornerstone myth of the American tax system: that everyone pays their fair share and the richest Americans pay the most."[2] The tax records reviewed by ProPublica "show that the wealthiest can — perfectly legally — pay income taxes that are only a tiny fraction of the hundreds of millions, if not billions, their fortunes grow each year."[3]

ProPublica obtained a trove of tax data for the nation's billionaires. It estimated that the tax bills of some of the nation's wealthiest individuals were equivalent to just 3.5% of their growing fortunes,[4] – well below the typical rates paid by middle class wage earners.[5] Several paid even less. Warren Buffett paid taxes equivalent to less than 0.1% on his $24 billion that his wealth grew in 2018. In 2011, Jeff Bezos, who had a fortune worth $18 billion, filed a tax return reporting that he lost money, even claiming and receiving a $4,000 tax credit for his children.[6] These wealthy individuals have armies of financial advisors and cooperative financial institutions that help them develop and implement these tactics.

This tax avoidance by the nation's wealthiest individuals is profoundly unfair. It leaves the nation unable to pay for critical investments in infrastructure, education, and health care. It favors investment income over wages, distorting our nation's economy and adding to inequality. And it leaves low-income and middle class families paying an unfair tax burden.

A key finding of the ProPublica investigation is that the vast majority of the tax avoidance is legal: the nation's wealthiest individuals and families are able to take advantage of loopholes and use complex investment and income strategies to avoid taxable income – all while they reap

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[1] ProPublica, "The Secret IRS Files: Trove of Never-Before-Seen Records Reveal How the Wealthiest Avoid Income Tax," Jesse Eisinger, Jeff Ernsthausen, and Paul Kiel, June 8, 2021, https://www.propublica.org/article/the-secret-irs-files-trove-of-never-before-seen-records-reveal-how-the-wealthiest-avoid-income-tax.
[2] *Id.*
[3] *Id.*
[4] *Id.* ProPublica defined this ratio as a "true tax rate," a comparison between "how much in taxes the 25 richest Americans paid each year to how much Forbes estimated their wealth grew in that same time period."
[5] *Id.*
[6] *Id.*

billions from their investments and live lives of privilege that are beyond the imagination of most families.

The Finance Committee has an obligation to investigate these matters, hold hearings, and develop legislative policies that address the methods and strategies used by ultra-millionaires and billionaires to avoid paying taxes, and its impact on the nation's finances and ability to pay for investments in infrastructure, health care, the economy, and the environment.

As you know, the Committee has the right to obtain individuals' tax records if necessary for investigative or legislative purposes.[7] But the Committee can begin an investigation of the ultrawealthy's tax avoidance without taking such a step. Access to enormous lines of credit is a key component of these financial strategies, and the Committee should investigate the role that large financial institutions play in this tax avoidance for the ultrawealthy – individuals with fortunes greater than $50 million – by lending them large sums, at low interest rates, allowing them to use their stock or other holdings as collateral, and allowing them to live on these borrowed funds in lieu of taxable income.

ProPublica asked:

> [H]ow … megabillionaires pay their megabills while opting for $1 salaries and hanging onto their stock? … the answer for some is borrowing money — lots of it. For regular people, borrowing money is often something done out of necessity, say for a car or a home. But for the ultrawealthy, it can be a way to access billions without producing income, and thus, income tax. … since loans must be paid back, the IRS doesn't consider them income. Banks typically require collateral, but the wealthy have plenty of that.[8]

At an April hearing of the Finance Subcommittee on Fiscal Responsibility and Economic Growth, chaired by Sen. Warren, one witness Abigail Disney, described a similar approach by the wealthy to avoid paying taxes:

> When a person is born in this country it pretty much goes the same way every time. You come out, you get a little slap on your tushie until you cry, and then you get handed over to your parent. But when a baby is born into a family like mine, there is a little twist. You come out, you get a little slap on your tushie until you cry, and then before they hand you over to your parent, the doctor looks deep into your eyes and says, "Never spend capital." OK, so maybe I am exaggerating a bit, but not spending capital is as close to a religion among people who inherit wealth as you can get. Why is capital so sacred? Because it is the goose that lays the golden egg. The more capital you have, the more income and growth you can count on, the more stuff you can buy and so on. As long as you can invest for a return that outpaces inflation, your capital will grow and your buying power will grow with it and you can leave this life with money to spare. The subtext of the

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[7] Section 6103(f)(1) of the IRC provides that, upon written request of the Chair of the House Ways and Means Committee, Joint Committee on Taxation, or Senate Finance Committee, the Treasury Secretary "shall furnish" the requested tax returns or return information to the relevant committee.

[8] ProPublica, "The Secret IRS Files: Trove of Never-Before-Seen Records Reveal How the Wealthiest Avoid Income Tax," Jesse Eisinger, Jeff Ernsthausen, and Paul Kiel, June 8, 2021, https://www.propublica.org/article/the-secret-irs-files-trove-of-never-before-seen-records-reveal-how-the-wealthiest-avoid-income-tax.

> "never spend capital" mantra is, of course, that jobs are for chumps. If you ever find yourself reduced to earning your living by your labor, you've surely lost the big lottery you were born to win.[9]

The *Wall Street Journal* also reported last week that banks are lending the wealthy more than ever, letting them take out cheap loans backed by their investment portfolios so they can fund their lifestyles while minimizing their tax bills.[10] The banks profit from these arrangements by boosting their management fees when they use these practices to help the wealthy avoid having to pay taxes. Morgan Stanley's wealth management clients have $68.1 billion worth of securities-based and other nonmortgage loans outstanding, more than double the amount they had five years ago, and Bank of America has $62.4 billion in securities-based loans.[11]

The use and potential abuse of tax avoidance schemes by the wealthiest Americans is not occurring in a vacuum – it involves the nation's largest financial institutions and wealth management firms that help develop these tactics and provide the financial infrastructure that allows them to be effective. Because the majority of tax avoidance loans and other tax avoidance tactics are not disclosed to the IRS, an effective investigation of these tactics must involve the institutions that aid and abet them.

The Committee should open an investigation of the role of these financial institutions in tax avoidance, seeking information on how certain lending activities allow individuals to avoid claiming taxable income and the precise methods used by these institutions to do so. After a thorough review of these materials, if appropriate the Finance Committee should hold a public hearing involving top executives from these financial institutions who can explain their role in the tactics ultra-millionaires use to avoid paying their taxes.

We appreciate your rapid action to address loopholes that enable tax avoidance by some of America's wealthiest individuals.

Sincerely,

Elizabeth Warren
United States Senator

Sheldon Whitehouse
United States Senator

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[9] Testimony of Abigail Disney to the U.S. Senate Finance Subcommittee on Fiscal Responsibility and Economic Growth, April 27, 2021, https://www.finance.senate.gov/hearings/creating-opportunity-through-a-fairer-tax-system.
[10] The Wall Street Journal, "Buy, Borrow, Die: How Rich Americans Live Off Their Paper Wealth," Rachel Louise Ensign and Richard Rubin, July 10, 2021, https://www.wsj.com/articles/buy-borrow-die-how-rich-americans-live-off-their-paper-wealth-11625909583.
[11] *Id.*