

21 March 2024

Senate Finance Committee Holds Hearing with Sec. Yellen

The March 21 Senate Finance Committee hearing with Treasury Secretary Janet Yellen on the President's FY2025 Budget proposal included discussion of the OECD BEPS 2.0 project, the costs of the project to the United States, and whether and how the two proposed pillars could be brought before Congress. There was also discussion about the pending business tax and Child Tax Credit (CTC) expansion bill and various aspects of the Inflation Reduction Act (IRA), including energy tax credits.

Chairman Ron Wyden (D-OR) said putting Republicans in power after the next election could jeopardize the IRA, including "the funding for the IRS that has vastly improved customer service and cracked down on wealthy tax cheats." Separately, he noted it has been seven weeks since House passage of the Tax Relief for American Families and Workers Act (H.R. 7024) and reiterated prior comments that some businesses may not survive if lawmakers opt to put off dealing with the issues in the bill until 2025. In an effort to make the bill more to the liking of some Senate Republicans, Chairman Wyden said he has offered to take the CTC lookback provision – allowing the use of prior-year earnings to calculate the CTC – out of the bill, and that offer stands.

Likely referencing press reports that some Republicans have admitted they don't want a tax bill to pass this year, Chairman Wyden said, "I understand that some members prefer to wait and try to pass a bill next year. The reality is delay will have serious consequences. A lot of innovative small businesses – for whom the R&D provision in the bill is a lifeline – are telling me they aren't going to be around in 2025 if the Senate decides to wait. I also believe there are a lot more than 60 members who want us to act. So, I'm going to keep at it."

Ranking Member Mike Crapo (R-ID) said the Administration should have reservations about signing on to the OECD Pillar One Multilateral Convention (MLC). "The global tax code is not the only concerning part about the international tax negotiations: the Administration should have deep reservations about signing on to the OECD's global tax treaty at month's end. The Joint Committee on Taxation's recent analysis indicates the deal reduces revenue, fails to provide certainty or stability and would not halt discriminatory taxes targeting American companies, which was the sole impetus for entering the negotiations." He also said the IRA tax credits benefit foreign manufacturing and their cost has ballooned to \$663 billion over 10 years.

In defense of the President's budget, and the OECD global minimum tax initiative, Sec. Yellen said: "President Biden and I continue to urge Congress to act so that the United States plays its part in the global minimum tax deal, which is currently being implemented in jurisdictions around the world to end the race to the bottom in corporate taxation. We have also proposed implementing a Billionaire Minimum Tax so that the top .01% pay their fair share; raising the tax on corporate stock buybacks to encourage businesses to reinvest profits in their workers and grow their companies; and closing estate and gift tax loopholes that allow wealthy Americans to pay less than they would otherwise owe."

The following table paraphrases some exchanges between Senators and Sec. Yellen.

Topic	Senator question	Sec. Yellen response
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<p>Billionaires' tax</p>	<p>Chairman Wyden asked about tax dodging in an "assortment of different strategies," and invoked his criticism of the "buy, borrow, and die" practice.</p>	<p>Sec. Yellen said some of the wealthiest Americans pay very little tax because they receive income as capital gains that aren't taxed until realized and may escape taxation at death. The President's Budget includes a billionaires' tax of 25% inclusive of unrealized capital gains. Similar to Wyden's comments, she said wealthy households borrow against their wealth to finance lavish lifestyles while reporting that it generates little to no income for tax purposes.</p>
<p>TCJA, OECD</p>	<p>Ranking Member Crapo said the Budget is essentially silent on extending TCJA individual provisions that expire next year.</p> <p>He said the Budget proposes to increase the corporate tax rate to 28% and align the US global minimum tax with aspects of Pillar 2 but proposed a much more "onerous version of it," including a rate 40% higher than the OECD deal (21% v. 15%) and without any substance-based exclusion as provided under the Pillar 2 rules. Last year, the international tax proposals in the President's Budget, including adopting Pillar 2's UTPR, would raise over \$1t, but this year's Budget plan estimates the same proposals as raising a half-trillion dollars less. Is this year-over-year \$500b estimated decrease the result of countries adopting Pillar 2 rules into law over past year?</p> <p>Crapo responded that JCT has estimated that if the rest of the world and the US enact Pillar 2 next year, the US would lose over \$50b in revenue. "This is a revenue loser for America and is damaging to our economy," he said.</p>	<p>Sec. Yellen said the President has made clear that he supports extending tax cuts for those earning less than \$400,000/year.</p> <p>Sec. Yellen said, "Yes, in a sense, when standard procedure is to estimate what the tax savings or expense would be, under the assumption the United States adopts a policy, but does not assume that everyone else does. So, when there are changes abroad it does change the estimates."</p>
<p>Social Security</p>	<p>Bill Cassidy (R-LA) repeated comments from the weekend about President Biden's proposed tax increases. He asked what the</p>	<p>Sec. Yellen said the President has in the past discussed the possibility of increasing what income would be included for Social Security taxes. (The President's Budgets</p>

	<p>tax rate would need to be on wealthy individuals to shore up Social Security.</p> <p>There is going to be a cut in Social Security in eight years and Biden doesn't have a plan. "We have not heard from the President" on this, Cassidy said.</p>	<p>have not included his 2020 campaign proposal.)</p> <p>She said the President doesn't have a plan, he has principles and wants to work with Congress to extend Social Security solvency. It is true he has started with proposals that address the Medicare financing situation.</p>
TCJA	<p>Michael Bennet (D-CO) questioned the wisdom of Republican inclinations to cut taxes for the wealthy without paying for it (and borrowing instead).</p>	<p>Sec. Yellen said President Biden is asking wealthy people to pay their fair share and, with tax rates on dividends on capital gains lower than ordinary income and step-up in basis, wealthy people should pay more.</p>
OECD	<p>Marsha Blackburn (R-TN) said the cost to the US of Pillar 1 is \$1.4b and the revenue loss from Pillar 2 is estimated to be \$60b-\$120b (JCT) and, "We are very concerned about that."</p>	<p>Sec. Yellen said the US is attempting to negotiate a Pillar 1 agreement that will bring significant benefits to US businesses that have been "hit with unfair and discriminatory tax burdens" in many parts of the world and to get tax certainty for US companies on disputes over transfer pricing and other matters. "There would be substantial benefits to American businesses from this agreement if we conclude it. Our own internal estimate - there is a lot of uncertainty - but our own internal estimate is about \$500m," she said.</p>
OECD, energy	<p>James Lankford (R-OK) asked whether the OECD agreement will come before Congress.</p> <p>Regarding 30D EV credits, Lankford cited waivers for foreign products, as raised during the March 12 manufacturing hearing.</p>	<p>Sec. Yellen said she believes the Pillar 1 agreement would involve congressional action, and Pillar 2 also needs to be adopted by Congress. "We will bring it to Congress, and we will try to keep this Committee informed on a bipartisan basis," she said.</p> <p>Yellen said foreign entity of concern (FEOC) restrictions make it impossible for any vehicle to qualify if they include certain foreign components.</p>
Retirement	<p>Ben Cardin (D-MD) asked about SECURE 2.0 provisions on the Saver's Credit.</p>	<p>Sec. Yellen said IRS and Treasury have begun preparation for 2027 implementation and have convened a working group to be ready for 2027.</p>

	Senator Cardin asked about the 45U nuclear production credit.	Sec. Yellen said “we are working on rules on that” but could not provide a timeline.
OECD	Steve Daines (R-MT) noted the JCT data that Pillar 1 and Pillar 2 lose revenue.	Sec. Yellen said Pillar 2 ends the race to the bottom and levels the playing field. She wouldn’t answer whether she would refute JCT estimates “because there are several things to take into account,” but Treasury’s estimate is that Pillar 2 and the UTPR that goes with it results in a big increase in tax revenue for the US.
Energy	Sherrod Brown (D-OH) asked about the regulations on the 45V hydrogen credit and asked whether they would be revised.	Sec. Yellen said the guidance issued on 45V was developed through extensive consultation with stakeholders and DOE and EPA experts, with the objective to advance the production of hydrogen with all the benefits it provides in the US, plus environmental safeguards. We have heard concerns about hydrogen hubs, she said.
R&D	Maggie Hassan (D-NH) asked about restoring R&D expensing in the pending bipartisan tax package.	Sec. Yellen discussed benefits of the pending tax bill.
Energy	Sheldon Whitehouse (D-RI) asked about carbon pricing and carbon border adjustment mechanisms from Europe.	N/A
Energy	Catherine Cortez Masto (D-NV) repeated prior concerns about Treasury regulations excluding mineral extraction and processing costs from qualifying for the Section 45X Advanced Manufacturing Production Credit.	Sec. Yellen said it is a goal to make sure critical minerals are produced in the US.
OECD	Todd Young (R-IN) said every member of the Committee should be outraged at how the President has undermined Congress’s role in the context of the OECD global tax agreement. He said the OECD minimum tax manages to raise taxes on US-based businesses and reduce US tax revenue at the same time. Senator Young noted he has previously raised the issue of Pillar 2 of the agreement compromising the benefits of the R&D credit. He noted press reports citing a Treasury official saying that the Department will attempt to fix the treatment of the R&D credit through OECD administrative guidance, but, if necessary,	Sec. Yellen said the R&D credit is a critical issue for us, and believes we have an opening to resolve this issue with the OECD that will be favorable. We have resolved a number of issues favorably through administrative guidance that affect the United States, she said.



	will revert to “Plan B” that involves legislation that would have to be passed by Congress.	
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Testimony from the hearing is at <https://www.finance.senate.gov/hearings/hearing-on-the-presidents-fiscal-year-2025-budget>