

**EDITORIAL BOARD MEMO**

To: Editors and Columnists
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WINNERS & LOSERS IN HUGE $680 BILLION TAX CUT PACKAGE

It includes more than $400 billion in unpaid-for corporate tax breaks, but includes important tax credits for working families

**WASHINGTON, D.C.—**As part of the year-end fiscal package, [$680 billion of tax cuts](http://www.latimes.com/nation/politics/la-na-congress-budget-20151218-story.html) were signed into law by President Obama on Friday, after being approved by Congress. As your editorial board evaluates the pros and cons of the tax breaks for your readers, Americans for Tax Fairness would like to be a helpful resource. [An ATF chart lists all 59 tax provisions](http://www.americansfortaxfairness.org/files/ATF-Analysis-of-Cost-of-Tax-Extender-Omnibus-Deal.pdf) in both the 2015 tax-extender package and the Omnibus Appropriations bill. The House of Representatives passed the tax extenders as free-standing legislation ([House vote here](http://clerk.house.gov/evs/2015/roll703.xml)); the U.S. Senate rolled the tax breaks into the omnibus spending bill ([Senate vote here](http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=114&session=1&vote=00339)).

The chart includes the length of each tax break and the $686 billion estimated 10-year cost from the Joint Committee on Taxation. The package includes:

* 24 business tax provisions, costing a total of $383 billion over 10 years
* 17 energy business tax provisions, costing a total of $33.5 billion over 10 years
* 10 individual tax provisions, costing $253 billion over 10 years
* 4 community assistance tax provisions, costing $3.3 billion over 10 years
* 4 provisions dealing with donations to charities, costing $12.8 billion over 10 years

As a coalition representing different points of view, we see this tax deal as a mixed bag for the American people—there are winners and losers.

According to ATF’s analysis of the total $686 billion in tax breaks and tax credits, 61% ($417 billion) benefit businesses and 37% ($253 billion) benefit individuals. A typical tax-extender package (so named because about 50 tax breaks expired every year or two and Congress typically renewed – extended – all of them) cost about $50 billion a year. They were never paid for, for instance by closing other loopholes, and about 80% of the tax breaks benefitted businesses. See ATF’s [December 1 editorial board memo](http://www.americansfortaxfairness.org/files/2015-12-01.Ed-Bd-Memo-on-Tax-Extenders-FINAL.pdf) for more background.

While this new package is a more balanced ratio of corporate tax cuts to individual tax cuts (60-40 rather than 80-20) than in typical tax-extender bills, we believe **none of these corporate tax breaks should have been extended without paying for them by closing other corporate tax loopholes**.

A double standard is at work among conservatives in Congress. They routinely pass big tax breaks for corporations that are not paid for. Yet, corporations have not contributed a dime to deficit reduction in recent years by repealing even one corporate tax break or loophole. Meanwhile, nearly [$2.7 trillion in spending cuts](http://www.budget.senate.gov/democratic/public/_cache/files/ca28afb2-456a-440e-a2ba-699587c984b4/the-republican-budget-a-massive-transfer-of-wealth-from-the-middle-class-to-millionaires-and-billionaires.pdf) are scheduled over the next 10 years due to deficit-reduction deals. Even with the recent [budget deal](http://www.cbpp.org/press/statements/greenstein-budget-deal-though-imperfect-represents-significant-accomplishment-and), nondefense discretionary programs—which include education, housing, infrastructure, and research—will be cut to a smaller share of the economy than any time since the government began tracking this data in 1962.

Conservatives even demanded that a renewal of the [9/11 first responders World Trade Center Health Program](http://www.huffingtonpost.com/entry/congress-sept-11-responders_566effdbe4b0e292150e9994) and a Victims Compensation Fund, costing a total of $8 billion, be paid for in order to be included in the omnibus year-end spending package.

On the other hand, the tax deal is also a win for working families. Advocates were able to secure permanent improvements to two successful pro-work, anti-poverty tax credits that were set to expire in 2017: the Earned Income Tax Credit (EITC) and the Child Tax Credit (CTC). Their cost: $118 billion over 10 years. If these improvements were allowed to expire, it would have pushed more than [16 million people](http://www.cbpp.org/research/federal-tax/letting-key-provisions-of-working-family-tax-credits-expire-would-push-16)—including about 8 million children—into poverty or deeper into poverty.

Another win was the renewal of the [American Opportunity Tax Credit](https://www.schumer.senate.gov/newsroom/press-releases/_schumer-announces-after-his-push-just-unveiled-tax-package-would-make-college-tuition-tax-credit-permanent-schumer-authored-tax-credit-provides-much-needed-relief-to-middle-class-families-now-paying-sky-high-college-tuition-costs), at a 10-year cost of $80 billion. It provides a tax credit of up to $2,500 for expenses incurred while attending college such as tuition, fees and course materials. This will give a helping hand to millions of families struggling with the costs of higher education.

Below is a deeper analysis of these wins and losses and missed opportunities.

**BAD CHOICES**

From our perspective, the worst tax breaks to be extended in the deal are the Active Financing Exception (AFE), the Controlled Foreign Corporations (CFC) Look-Through Rule, and Bonus Depreciation. Both AFE and CFC provide tax advantages to American multinational corporations for shifting profits offshore, especially to tax havens. The AFE was made permanent. The CFC Look-Through Rule was extended for five years, and Bonus Depreciation was extended for six years. However, a future Congress may vote to renew both of them.

* **Active Financing Exception** ([$78 billion over 10 years](http://www.americansfortaxfairness.org/files/ATF-Analysis-of-Cost-of-Tax-Extender-Omnibus-Deal.pdf)).This tax loopholelets corporations (primarily financial institutions such as Wall Street banks and insurance companies) avoid paying U.S. taxes on the financial income they earn (or claim to earn) in foreign countries, so long as those profits remain officially offshore. This is a major reason that General Electric, which made $27.5 billion in profits from 2008-2012, got a total of $3.1 billion in federal tax *refunds* and paid an effective tax rate of *negative* 11.1% over that period, [according to Citizens for Tax Justice](http://www.ctj.org/corporatetaxdodgers/sorrystateofcorptaxes.pdf). For a more [detailed AFE fact sheet go here](http://www.americansfortaxfairness.org/files/ATF-Active-Financing-Exception-Fact-Sheet-2015-FINAL.pdf).
* **Controlled Foreign Corporation (CFC) Look-Through Rule** ([$7.8 billion over five years](http://www.americansfortaxfairness.org/files/ATF-Analysis-of-Cost-of-Tax-Extender-Omnibus-Deal.pdf)).This tax loophole lets U.S. multinationals shift profits between foreign subsidiaries without triggering the U.S. taxes normally due. Typically, the U.S. parent grants ownership of assets like brands and patents to a subsidiary located in a tax haven, which “licenses” them at steep prices to a foreign subsidiary in a higher tax country. The internal royalty payments artificially inflate the high-tax subsidiary’s costs and therefore reduce its profits and tax liability and ultimately that of its parent corporation. For a more [detailed CFC fact sheet go here](http://www.americansfortaxfairness.org/files/ATF-CFC-Look-Through-Rule-Fact-Sheet-2015-FINAL.pdf).
* **Bonus Depreciation** ([$28 billion over six years](http://www.americansfortaxfairness.org/files/ATF-Analysis-of-Cost-of-Tax-Extender-Omnibus-Deal.pdf)). This tax break was previously enacted to help stimulate the economy during two recent downturns, but its purported benefits are very limited. In a review of several studies the [Congressional Research Service](http://cdn.akingump.com/images/content/3/1/v2/31140/Bonus-Depreciation-CRS-Report-July-2014.pdf) said “research suggests that bonus depreciation was not very effective.” While the $28 billion loss of corporate tax revenue is a lot, the damage could have been much worse as the House-passed version of this tax break cost 10 times as much – $280 billion. For a more [detailed bonus depreciation fact sheet go here](http://www.americansfortaxfairness.org/files/ATF-Bonus-Depreciation-Fact-Sheet-2015-FINAL.pdf).

**GOOD DECISIONS**

Advocates for working families were successful in their quest to secure permanent improvements to two pro-work tax credits: the Earned Income Tax Credit and the Child Tax Credit. The EITC and CTC are pro-work success stories and analysts say they are among the most successful anti-poverty tools ever developed.

The EITC may be available to families [with at least three children that make up to $52,000](https://www.eitc.irs.gov/Partner-Toolkit/basicmaterials/ff) annually, and it provides a maximum tax credit of around $6,000. With the CTC, a parent can [reduce their federal income tax by up to $1,000 for each child](https://www.irs.gov/uac/Ten-Facts-about-the-Child-Tax-Credit) under 17. The phase-out of the CTC begins at different income ranges—from as low as $55,000 up to $110,000—depending on filing status.

Several [key features of the tax credits were set to expire](http://www.cbpp.org/research/federal-tax/letting-key-provisions-of-working-family-tax-credits-expire-would-push-16) in 2017. For example, a lower CTC earnings exclusion would have ended. The improvements allow millions of working families to earn a more adequate CTC and fewer working-poor families are shut out of the credit. Expiring provisions of the EITC are “marriage-penalty” relief and a larger EITC for families raising more than two children.

If these improvements were allowed to expire, it would have pushed more than [16 million people](http://www.cbpp.org/research/federal-tax/letting-key-provisions-of-working-family-tax-credits-expire-would-push-16)—including about 8 million children—into poverty or deeper into poverty.

**MISSED OPPORTUNITY**

Congress missed a golden opportunity to use this tax legislation to stem the wave of American corporations deserting the country in order to avoid their taxes. On the heels of New York City-based Pfizer announcing it will merge with Allergan and officially become an Irish company, lawmakers could have used the tax extender package as a vehicle to close the corporate inversion loophole. By letting the inversion loophole stand, once Pfizer becomes Irish, it will be able to dodge tens of billions of dollars in taxes it owes on the [$140 billion in profits it has stashed offshore](http://www.americansfortaxfairness.org/files/Pfizers-Tax-Dodging-Rx-Stash-Profits-Offshore-Final1.pdf), all or most of which is in tax havens.

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***Americans for Tax Fairness*** *is a diverse coalition of* [*425 national and state endorsing organizations*](http://www.americansfortaxfairness.org/about/endorsements/) *that collectively represent tens of millions of members. The organization was formed on the belief that the country needs comprehensive, progressive tax reform that results in greater revenue to meet our growing needs. ATF is playing a central role in Washington and in the states on federal tax-reform issues.*