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Congress of the United States
JOINT COMMITTEE ON TAXATION
502 FORD HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6453
(202) 225–3621
http://www.jct.gov

THOMAS A. BARTHOLD
CHIEF OF STAFF

ROBERT P. HARVEY
DEPUTY CHIEF OF STAFF

DAVID L. LENTER
DEPUTY CHIEF OF STAFF

NOV 14 2017

Honorable Kevin Brady
U.S. House of Representatives
1011 Longworth HOB
Washington, D.C. 20515

Dear Chairman Brady:

You asked me to comment on the changes made by H.R. 1 as ordered reported by the House Committee on Ways and Means in the context of Clause 5(b) of Rule XXI of the House of Representatives.

Clause 5(b) of Rule XXI sets special passage requirements for measures that amend subsections (a), (b), (c), (d), or (e) of section 1 or section 11(b) or 55(b) of the Internal Revenue Code in a manner that imposes a new percentage rate of tax and thereby increases the amount of tax imposed by such section. H.R. 1 amends the relevant sections by eliminating the 10-percent bracket, which is obviated as a marginal rate as a result of the increase in the standard deduction provided in section 63(c) and makes general changes to the income thresholds at which the varying tax rate brackets apply and eliminating several other tax rates of present law. These changes combined with the increased value of the child tax credit (in section 24) result in virtually every taxpayer who formerly would have been in the 10-percent tax bracket having a lower tax liability under the changes that would be effectuated by H.R. 1 than they would under present law.

Similarly, H.R. 1 eliminates the present-law 33-percent marginal tax bracket. As a result there are some taxpayers who would claim the standard deduction and had his or her last dollar of income taxed in the 33-percent tax bracket under present law but under H.R. 1 after claiming the increased the standard deduction would have their last dollar of income taxed in the 35-percent tax bracket. However, in each such case the taxpayer's total income tax liability is lower under H.R. 1 than under present law. For taxpayers who eschew the standard deduction under present law there is substantially greater variability in resulting tax liabilities. With the elimination of some deductions that taxpayers may elect to itemize under present law, it is not possible to say in all cases that these taxpayers have lower total income tax liability under H.R. 1 than under present law. However, by comparison to the case of a taxpayer claiming the standard deduction, the variability of these results is clearly a consequence of the changes to the tax base effectuated by H.R. 1 rather than a consequence solely of the elimination of the present-law 33-percent bracket.

Because the House rule does not contemplate changes to the Internal Revenue Code as a whole and the interactions such changes have on tax liability, H.R. 1 requires a waiver of the rule's provisions. In its totality, the combined effect of the tax rate and income threshold amendments made by the bill, along with the increase in the standard deduction, would not, in and of themselves, result in an increase in the amount of tax imposed on virtually any filer as a result of these changes.

I hope this discussion is helpful. Please contact me with any questions.

Sincerely,

Thomas A. Barthold

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cc: Allison Halataei
Barbara Angus