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March 4, 2025

Honorable Elizabeth Warren
United States Senate
SH-311
Washington, D.C. 20510

Honorable Catherine Cortez Masto
United States Senate
SH-309
Washington, D.C. 20510

Honorable Michael F. Bennet
United States Senate
SR-261
Washington, D.C. 20510

Honorable Mark R. Warner
United States Senate
SH-703
Washington, D.C. 20510

Honorable Peter Welch
United States Senate
SR-124
Washington, D.C. 20510

Dear Senator Warren, Senator Cortez Masto, Senator Bennet, Senator Warner, and Senator Welch:

I write in response to questions you submitted on February 19, 2025, regarding estimating the budgetary effects of proposed changes in the Internal Revenue Code.

Question 1. *Is JCT's default approach to scoring tax legislation to score it on a current law baseline or a current policy baseline? How long has this been the Committee's approach?*

In a recent publication, *The Joint Committee on Taxation Revenue Estimating Process,*[1] the staff of the Joint Committee on Taxation ("Joint Committee staff") describes what a revenue estimate is and the models used to prepare revenue estimates for the Congress. In that document the Joint Committee staff writes, "The JCT staff provides estimates of revenue changes relative to a baseline of projected future Federal revenue under present law, not relative to revenue received in the current or prior years." This approach is pursuant to the Congressional Budget and Impoundment Control Act of 1974[2] ("Budget Act") which in section 257 defines the baseline: "For any budget year, the baseline refers to a projection of current-year levels of new

[1] Released January 2025 and available at www.jct.gov.

[2] Pub. L. 93-344.

budget authority, outlays, revenues, and the surplus or deficit into the budget year and the outyears based on laws enacted through the applicable date."[3]

The Joint Committee staff has provided estimates relative to the present law baseline since the mid-1970s as the Joint Committee staff's default approach.

While the Joint Committee staff's default approach to providing Members of Congress with revenue estimates of proposed changes in tax law is to measure such effects relative to the present law baseline, Members of Congress on various occasions have asked that estimates be provided relative to an alternative baseline, including what Members have described to the Joint Committee staff as their views of current policy. Because the Joint Committee staff serves the Members of Congress by providing economic analysis that facilitates the Members' development and consideration of alternative tax policies, the Joint Committee staff has responded to these requests by presenting estimates relative to a baseline consistent with the Member's definition of current policy. In the past, in providing these estimates to the Member, the Joint Committee staff has presented the estimate as having two components, the first of which is an estimate of the defined current policy relative to the present law baseline followed by the proposed modification as a modification to the defined current policy.[4]

[3] Section 13101(e)(1) of Pub. L. 101-508, the "Omnibus Budget Reconciliation Act of 1990," amended the Budget Act to provide this language defining the "baseline." Prior to that time the Budget Act referred to the "budget base." The revenue level in the budget base for any fiscal year was to be calculated by assuming that current law continues through the fiscal year in question. Expiring revenue provisions were to be assumed to terminate as scheduled except in the case of excise taxes dedicated to a trust fund, which were to be assumed to be extended through the fiscal year at current rates. See, for example, Pub. L. 99-177, the "Balanced Budget and Emergency Deficit Control Act of 1985," and House Report 99-437 (pp. 81-82).

[4] As a technical matter all Joint Committee staff revenue models reflect the Congressional Budget Office's macroeconomic and receipts baselines, which are prepared and projected under present law. Consequently, to report an estimate relative to a Member's defined current policy baseline, the Joint Committee staff must first estimate the differences between the revenues projected to be raised under present law and the revenues projected to be raised under the Member's defined current policy.

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Question 2. *Has JCT ever produced a score on a current policy baseline for official use on the Senate floor?*

Section 257(b)(ii)(C) of the Budget Act defines the baseline such that for "[e]xcise taxes dedicated to a trust fund, if expiring, are assumed to be extended at current rates." That is, with respect to the excise tax rates for such taxes dedicated to a trust fund, the baseline follows current policy notwithstanding any expiration date. The Joint Committee staff has provided estimates for extensions and modification to such excise taxes, relative to the baseline as so defined, for legislation considered on the Senate floor.[5]

Question 3. *Assuming JCT were not directed by members of Congress to score the bill in particular way, would JCT use a current law baseline or a current policy baseline to score a 10-year extension of TCJA?*

As a routine response to a request from a Member of Congress for an estimate of the extension of various provisions of Pub. L. 115-97 (often referred to as the "Tax Cuts and Jobs Act" or "TCJA") the Joint Committee staff would provide the estimate relative to the relevant present law baseline reporting for the 10-year budget period.[6]

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[5] A recent example is Pub. L. 118-63, the "FAA Reauthorization Act of 2024." This legislation was enacted on May 16, 2024, after the Senate passed an amendment in the nature of a substitute to a House bill, H.R. 3935, on May 9, 2024, and subsequent passage of the Senate amendment by the House of Representatives. That legislation extended through September 30, 2028, all the taxes dedicated to the Airport and Airway Trust Fund.

[6] In December 2024, the Joint Committee staff published estimates of the extension of the various provisions of the individual income tax that pursuant to Pub. L. 115-97 are scheduled to expire after December 31, 2025. These estimates were made relative to present law and the Congressional Budget Office's 2024 macroeconomic baseline. See, Joint Committee on Taxation, *Overview of Methodology for Analyzing the Macroeconomic Effects of Proposed Changes in Tax Law,* December 2024, at slide 11, available at www.jct.gov.

Question 4. *If JCT were to employ a current policy baseline, would you have estimated a budgetary impact from an extension of the child tax credit expansion from the American Rescue Plan Act (ARPA)?*

As I related above, the Joint Committee staff has, at Member request, reported estimates relative to a current policy baseline. However, in such instances the Member of Congress has defined his or her current policy baseline. As an historical note, I recall that in 2012 as the expiration of several tax provisions enacted under the Economic Growth and Tax Relief Reconciliation Act of 2001[7] and the Jobs and Growth Tax Relief Reconciliation Act of 2003[8] approached, several Members of Congress requested estimates relative to a current policy baseline. In making these requests, different Members had different definitions of current policy. The Joint Committee staff responded to each Member with estimates reported relative to his or her defined current policy baseline. The Joint Committee staff does not presume to define current policy. In general, absent a clear definition of current policy, I cannot answer such a question as that posed in your request.

The child tax credit, first enacted in the 1990s was increased to a value of $2,000 by Public Law 115-97 effective for years after 2017 and before 2026. The American Rescue Plan Act of 2021[9] ("ARPA") increased the value to $3,000 and made certain other modifications effective for 2021. However, if during deliberation on ARPA, a Member of Congress were to have asked for the budgetary effect of the proposed increase and modifications to the child tax credit measured relative to a baseline where the Member assumed that the $2,000 value of the child tax credit was a permanent component of the Internal Revenue Code, the estimated budgetary effect relative to that definition of current policy would have been identical to the estimate that the Joint Committee staff provided measured relative to the present law baseline.

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[7] Pub. L. 107-16.

[8] Pub. L. 108-27.

[9] Pub. L. 117-2.

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Question 5. *If JCT were to employ a current policy baseline, would you estimate a budgetary impact from an extension of the Affordable Care Act (ACA) enhanced insurance premium tax credit, which is otherwise set expire in 2025?*

The premium tax credit, first enacted in 2010 was modified by ARPA. Public Law 117-169 extended the modifications to remain in effect through December 31, 2025. While the Budget Act defines the present law baseline, as I related above, in my experience the Members of Congress have on occasion had different definitions of current policy. The Joint Committee staff does not presume to define current policy. However, if a Member of Congress were to ask for the budgetary effect of extending the enhanced premium tax credit relative to a baseline defined to assume that the enhanced premium tax credit was a permanent component of the Internal Revenue Code, legislation extending the enhanced premium tax credit would have no reportable budgetary effect.

I hope this information is helpful to you. If we can be of further assistance in this matter, please let me know.

Sincerely,

Thomas A Barthold

Thomas A. Barthold