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"Current Policy" Baseline Would Hide $439 Billion in Tax Cuts Worth at Least $40,000 a Year for the Top 0.1 Percent

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The Senate Budget Committee is reportedly considering using in its budget resolution a "current policy" baseline instead of the traditional "current law" baseline for evaluating policy changes[1] — a seemingly arcane maneuver that, in fact, would make it much easier to enact $439 billion of regressive tax cuts over ten years by hiding their fiscal and distributional impacts.

That $439 billion figure represents the cost of extending, through the next decade, dozens of corporate and individual tax provisions that would otherwise expire or have already expired under current law. A current law baseline reflects their scheduled expiration, so proposals to extend them would cost money. A current policy baseline, by contrast, assumes that they will remain in effect indefinitely, so proposals to extend them would *not* lose revenues. That could help a Republican tax bill appear to be less costly than if it were assessed relative to current law — and could be crucial for hitting a desired revenue target, particularly one that facilitates the use of a privileged, fast-track status in the Senate that would allow the bill to pass without any Democratic support.

Further, the tax provisions set to expire are, overall, skewed to the top: they are worth at least $40,000 a year to the top 0.1 percent of households but far less to low- and moderate-income households. By assuming that those provisions continue, a current policy baseline therefore also assumes that after-tax incomes will be more unequal than they would be under a current law baseline, in which they expire. In this way, a current policy baseline could help make a tax plan appear less skewed to the top than would be the case under traditional current law estimates. For example, ignoring the impact of tax cuts worth at least $40,000 apiece to the top 0.1 percent could help a tax bill appear to meet Treasury Secretary Steven Mnuchin's promise that any tax bill that Congress passes and President Trump signs into law will include no absolute tax cuts for the upper class.[2]

[1] Paul M. Krawzak, "Enzi Plans September Budget Markup as McConnell Urges Speed," *Roll Call*, August 7, 2017, https://www.rollcall.com/policy/enzi-plans-september-budget-markup-mcconnell-urges-speed. The resolution passed out of the House Budget Committee used a "current law" baseline, but has not yet passed the House floor and could be subject to change.

[2] Chuck Marr and Chye-Ching Huang, "ACA Repeal, Trump Tax Plan, and Ryan's "Better Way" Tax Plan All Fail Mnuchin Test," Center on Budget and Policy Priorities, January 18, 2017, http://www.cbpp.org/research/federal-tax/aca-repeal-trump-tax-plan-and-ryans-better-way-tax-plan-all-fail-mnuchin-test.

Even more egregious, Republicans may try to push this gimmick one step further, and actually claim "savings" for simply letting the expiring tax cuts expire as scheduled under current law. Neither the Trump nor House Republican "Better Way" tax plans call for their extension. Under a current policy baseline, they could assert that letting these expiring tax cuts expire would generate "savings" that could be used to "pay for" other tax cuts that are *equally* costly and regressive — and that such a swap should not count as reducing revenues or increasing inequality.

Thus, irrespective of the specific tax cuts that policymakers decide to pursue, a current policy baseline is a gimmick that would mask their true effects. As the Committee for a Responsible Federal Budget's senior advisor, Ed Lorenzen, has said about the change, "If you're a believer in the integrity of the budget process, it looks like you're trying to change the rules to hide a cost."[3] Policymakers should reject this misguided change and continue to use the traditional current law baseline.

Changing Revenue Baseline Can Hide Costly Tax Cuts

Revenue baselines are the starting point for evaluating the fiscal effects of tax proposals. The difference between a current policy and current law baseline is how they treat tax policies that are scheduled to change under the laws now in place. For example, consider a tax cut that will expire under current law, unless the President and Congress enact a new law to prevent that expiration:

- The current law baseline reflects the reality that the tax system will continue to collect tax revenues as specified by the laws in place — and only those laws. It therefore shows an expiring tax cut expiring as scheduled. So, if Congress proposes a bill to extend the tax cut temporarily or permanently, the Joint Committee on Taxation (JCT) and Congressional Budget Office (CBO) will estimate that the bill would *reduce* revenues relative to the current law baseline.[4]
- A current policy baseline assumes that *policies* (as opposed to *laws*) now in effect will stay in effect, even if policymakers would have to take action to continue them. Against a current policy baseline, JCT and CBO would estimate that a bill extending the expiring tax cut would have *no impact* on revenues.

The choice matters for coming tax policy debates because dozens of federal tax breaks, mainly for corporations, expired at the end of 2016 or are scheduled to expire over the next decade under current law.[5] Most are known as "tax extenders" because policymakers have routinely extended them for a year or two at a time, at least in part because temporary extensions hide their significant

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[3] Alan K. Ota, "Brady Seeks New Fiscal Baseline for Tax Bill," *CQ News*, June 26, 2017, http://www.cq.com/doc/news-5129876?4.

[4] The same standards apply to provisions that raise revenues and provisions that are set to return rather than expire.

[5] This analysis does not examine health-related tax breaks that are scheduled to expire because they are being considered as part of the GOP health bills and their status (along with that of health bill efforts) is uncertain. For more on health taxes, see Chye-Ching Huang and Brandon DeBot, "House Health Bill: Tax Cuts for Wealthy, Insurers, and Drug Companies Paid for by Low- and Middle-Income Families," Center on Budget and Policy Priorities, May 22, 2017, http://www.cbpp.org/research/federal-tax/house-health-bill-tax-cuts-for-wealthy-insurers-and-drug-companies-paid-for-by.

long-term cost. Many have little or no economic merit.[6] In a December 2015 tax and budget deal, policymakers made a number of them permanent while giving others only temporary extensions. At the time, many Republican policymakers vowed that that deal represented the last such legislation that would extend the "tax extenders" on a temporary basis. House Speaker Paul Ryan said, we're "ending Washington's days of extending tax policies one year at a time."[7]

The tax extenders that received temporary extensions in 2015 are now the key issue related to the House's plan to switch to the current policy baseline. A current law baseline would reflect their scheduled expiration. Making them permanent would reduce federal revenues by about $439 billion between 2018 and 2027, CBO estimates, including about $379 billion in corporate tax breaks.[8] (The *total* cost of extending the provisions actually would be $512 billion over ten years, after accounting for the higher interest payments on the national debt that would flow from the higher budget deficits over this period.)

A current policy baseline could substantially ease the path for Republicans' efforts to enact their costly and regressive tax cut plans. Republican leaders have said they plan to use the budget "reconciliation" process to pass their tax plans.[9] Reconciliation bills can't be filibustered, which means they can pass the Senate with a simple 51-vote majority rather than the 60 votes needed to overcome a filibuster, thus allowing Republicans to push a tax bill through the Senate with only Republican votes. In practice, however, for lawmakers effectively to use reconciliation, their bill must not reduce revenues or increase deficits by more than the target for the budget period in the budget resolution's "reconciliation instruction."[10] Further, Senate reconciliation rules require that the bill not increase deficits in any year *after* the period covered by that instruction.[11]

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[6] Chuck Marr and Brandon DeBot, "House Efforts to Make Tax 'Extenders' Permanent Are Ill-Advised," Center on Budget and Policy Priorities, May 19, 2015, http://www.cbpp.org/research/federal-tax/house-efforts-to-make-tax-extenders-permanent-are-ill-advised.

[7] Speaker Ryan's Press Office, "Speaker Ryan: 'This Is a Big Win for American Jobs,'" December 16, 2015, http://www.speaker.gov/video/speaker-ryan-big-win-american-jobs.

[8] Congressional Budget Office, "Detailed Revenue Projections," June 2017, https://www.cbo.gov/about/products/budget-economic-data#7.

[9] Alan Rappeport, "Health Care? Taxes? Budget? G.O.P. Has Big To-Do List, but Little Time," *New York Times,* July 5, 2017, https://www.nytimes.com/2017/07/05/us/politics/republicans-congress-trump.html?_r=0.

[10] Under section 313 of the Congressional Budget Act (known as the "Byrd Rule" after its chief sponsor, the late Sen. Robert F. Byrd), if a committee fails to comply with its reconciliation instruction, any provision under the committee's jurisdiction that loses revenue can be struck from the bill unless 60 senators vote to waive the rule. Thus, if the reconciliation bill loses more revenue than allowed, any tax-cutting provision could face a 60-vote threshold in order to remain in the bill. A bill losing revenue in this manner would also likely violate the revenue floor in the budget resolution, thereby violating section 311(a) of the Budget Act, and so 60 votes would be required to waive section 311(a) in order for the reconciliation bill to survive.

[11] David Reich and Richard Kogan, 'Introduction to Budget "Reconciliation,"' Center on Budget and Policy Priorities, November 9, 2016, http://www.cbpp.org/research/federal-budget/introduction-to-budget-reconciliation.

Whatever revenue target[12] the reconciliation instruction sets, a current policy baseline means that the federal tax system would have to raise *$439 billion less* in the first decade — and a comparably lower amount over the long-term — to meet that target than under a current law baseline. For example, if the resolution adopted a "revenue neutral" target for the first decade, a tax bill could adopt a tax system that raises $439 billion *less* in revenues over the next ten years than under current law, and retain privileged filibuster-proof status in the Senate. JCT and CBO's cost estimate would show such as bill as losing *no* revenue relative to the current policy baseline. Or, if the instruction allowed the tax bill to *lose*, say, $1 trillion over the next ten years relative to current policy, a tax bill could *lose $1.4 trillion* relative to current law and still meet the reconciliation target. In short, this maneuver allows the GOP to try to claim $439 billion of tax cuts that they do not have to pay for with other revenue sources (such as reducing other tax breaks).[13]

Many Republican leaders have said they want to end corporate tax preferences as part of a tax reform effort, including the corporate tax breaks set to expire under current law. For example, the Trump one-page tax plan proposes to "eliminate tax breaks for special interests," and the House GOP's "Better Way" tax blueprint proposes to "generally eliminate special-interest deductions and credits in favor of providing lower tax rates for all businesses and eliminating taxes on business investment."[14]

Even if Republicans choose to end such tax extenders, they are likely to try to use the current policy baseline to their advantage. They will likely assert that, under a current policy baseline, allowing the extenders to expire as scheduled should be scored as *raising* revenues. Policymakers could try use those "savings" to fund other equally costly, top-tilted tax cuts.[15] Regardless, then, of how Republicans treat tax extenders in their tax bill, they could try to use a current policy baseline to hide their tax bill's full revenue loss.

Changing Distributional Baseline Can Hide Regressive Tax Cuts

Distributional baselines are the starting point for measuring the effects of tax proposals on the distribution of income. As with revenue baselines, the difference between a current policy and current law distributional baseline is how they treat tax policies set to change under the laws now in place. For example, consider again a tax cut that will expire under current law, unless the President and Congress enact a new law to prevent that expiration:

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[12] Chye-Ching Huang, Decoding "Deficit Neutral" Tax Bill: Low-Income Program Cuts Pay for Tax Cuts for Wealthy," Center on Budget and Policy Priorities, June 15, 2017, http://www.cbpp.org/blog/decoding-deficit-neutral-tax-bill-low-income-program-cuts-pay-for-tax-cuts-for-wealthy.

[13] Or, if they adopt a "deficit neutral" instruction, with spending cuts.

[14] CNN, "The 1-page White House handout on Trump's tax proposal," April 26, 2017, http://www.cnn.com/2017/04/26/politics/white-house-donald-trump-tax-proposal/index.html; Tax Reform Task Force, "A Better Way: Our Vision for a Confident America," House Republican Conference, June 24, 2016, https://abetterway.speaker.gov/_assets/pdf/ABetterWay-Tax-PolicyPaper.pdf.

[15] They could also be used to claim deficit reduction, but the tax policies unveiled by the House GOP and Trump Administration would lose considerable revenues and significantly increase inequality even against a current policy baseline.

- A current law distributional baseline will reflect that tax cut as expiring as scheduled, as explained above. So, if policymakers propose a bill to extend the tax cut, JCT distributional tables will show that the bill will reduce taxes paid by the income groups that benefit from it.
- A current policy distributional baseline will assume that policies now in effect will stay in effect, even if lawmakers would have to take action to continue them. Therefore, against a current policy baseline, distributional tables might not show such a bill affecting taxes paid by any income group.

The tax breaks that policymakers temporarily extended in 2015 mainly benefit higher-income people on average, since the bulk of corporate tax cuts goes to the owners of corporations and other types of capital, who are very much concentrated among high-income households. Only a small share of benefits flow to low- and moderate-income working families.[16] We estimate, based on Tax Policy Center estimates, that about two-thirds of the benefits of extending the corporate tax breaks would flow to the top 20 percent of households, with about 28 percent going to the top 1 percent. The top 0.1 percent of households — whose incomes are at least $4.8 million apiece — would receive average tax cuts of at least roughly $40,000 (0.4 percent of their after-tax income) in 2025 from extending these tax cuts.[17] (See Table 1.)

[16] Such estimates do not explicitly show the eventual financing of the tax cuts, i.e, the spending cuts or tax increases that will eventually be needed to offset the costs of the tax cut and restrain the growth of the debt-to-GDP ratio. Yet those future offsets can overwhelm any benefit of corporate tax cuts for most workers. For more, see: Chye-Ching Huang and Brandon DeBot, "Corporate Tax Cuts Skew to Shareholders and CEOs, Not Workers as Administration Claims," Center on Budget and Policy Priorities, July 20, 2017, https://www.cbpp.org/research/federal-tax/corporate-tax-cuts-skew-to-shareholders-and-ceos-not-workers-as-administration.

[17] Based on TPC distribution of corporate provisions, which we split between long-run rate changes and "cost recovery" provisions because they have different distributions (although both favor high-income people disproportionately). We distribute corporate tax credits as rate changes. Even though not all corporate tax credits (such as the Work Opportunity Tax Credit) may actually share the same distribution as a rate change, we believe our estimate is still conservative because it is based on the distribution of a long-run corporate rate cut near the end of the budget window (2025) and does not include individual tax provisions (because we do not have a distribution for those provisions). Many of the individual provisions also likely favor higher-income households because they are structured as exclusions or deductions, which give the biggest tax cuts to higher-income filers, or as non-refundable credits, which exclude low-income households without federal income tax liability. For example, the Congressional Research Service (CRS) found that two of the biggest individual extenders — the exclusion of mortgage debt forgiveness and the credit for residential energy-efficient property — favor higher-income households. CRS notes "residential energy-efficiency tax credits are predominantly claimed by middle- and upper-income taxpayers." See: Margot L. Crandall-Hollick and Molly F. Sherlock, "Residential Energy Tax Credits: Overview and Analysis," CRS, January 21, 2016, https://fas.org/sgp/crs/misc/R42089.pdf; and Mark P. Keightley and Erika Lunder, "Analysis of the Tax Exclusion for Canceled Mortgage Debt Income," CRS, December 30, 2015, https://fas.org/sgp/crs/misc/RL34212.pdf.

TABLE 1

Biggest Benefits of Tax Cuts in Shift to Current Policy Baseline Flow to High-Income Households

Tax changes in 2025 from extending corporate tax breaks

Income group	Average tax cut	Change in after-tax income	Share of tax cuts
Lowest Fifth	$10	0.1%	2%
Second Fifth	$40	0.1%	5%
Middle Fifth	$80	0.1%	10%
Fourth Fifth	$170	0.1%	16%
Top Fifth	$840	0.3%	66%
All	$170	0.2%	100%
Top 1 Percent	$7,720	0.3%	29%
Top 0.1 Percent	$42,740	0.4%	17%

Source: CBPP analysis of TPC Table T17-0180, TPC T16-0072, and Congressional Budget Office data

A current policy baseline, by hiding the regressive effects of these tax cuts, could help Republicans appear to meet their tax reform promises. Treasury Secretary Steven Mnuchin said that tax reform should not deliver any "absolute tax cut for the upper class." A current policy baseline, however, would enable Republican policymakers to ignore the effect of tax cuts worth at least $40,000 a year for the top 0.1 percent of households because they're already "baked into" the baseline. Similarly, House Ways and Means Committee Chairman Kevin Brady claimed that "our tax proposal focus[es] on the middle class."[18] Adopting a current policy baseline would make it easier for the House GOP plan to appear to meet this standard by ignoring the effects of some of their tax cuts that skew to the top.

Once again, that could be true whether Republicans choose to make permanent the specific tax breaks that will otherwise expire or adopt other tax cuts with the same regressive tilt. Under a current policy baseline, letting the expiring tax provisions end as scheduled would appear to reduce after-tax income inequality and make the tax code appear more progressive in the years after the extenders expire. The budget scorekeepers could try to claim that a bill that replaces the extenders with other tax breaks similarly skewed to the top to have no distributional effects, even though it would make the tax system less progressive in the years after the extenders expire than it is under current law. However they treat the tax extenders in their tax bill, a current policy baseline could help Republicans hide the full impact of their distributional choices.

[18] John S. Marshall, "Brady pushes tax reform package that rivals Reagan-era changes," *Houston Chronicle,* June 2, 2017, http://www.chron.com/neighborhood/east-montgomery/news/article/Brady-pushes-tax-reform-package-that-rivals-11192115.php.