SAN DIEGO—Today, Assistant Secretary of the Treasury for Tax Policy Lily Batchelder delivered keynote remarks on current tax policy for the American Bar Association Tax Section 2023 Midyear Meeting.

As prepared for delivery.

Thank you, Wells, for the kind introduction. Good afternoon, everyone. It’s wonderful to be here with all of you in San Diego.

I would first like to thank the ABA Tax Section for inviting me to speak. It’s a privilege to have the opportunity to engage with so many of my colleagues in the tax world.

Today, I’d like to reflect on this unique moment in the history of the U.S. tax system and talk about some of the key priorities of the Treasury Department and the Office of Tax Policy in the coming year.

I have been working in the tax field for over two decades and have learned much about periods before then from many of you in this room. I cannot think of a more consequential – and hopeful – time for our tax system. We have the opportunity to update the architecture of our tax system for the 21st century on at least three interrelated fronts. Indeed, that transformation is already well underway.

The first is the international tax system. This system – established in the 1920s – has never been significantly updated to account for the realities of a global and highly mobile economy, including the significance of intellectual property in modern commerce, the integration of businesses across multiple jurisdictions, and the race to the bottom in corporate tax rates. The global minimum tax, which is already in the implementation phase, is doing just that. It is establishing a modern global tax system that will level the playing field for U.S. businesses, while also protecting U.S. workers and American families.
The second is using the tax code to tackle some of the most pressing social problems of our time. As everyone here knows, tax expenditures have long been used to advance social policy, but often in clunky and – as Stanley Surrey, the first Assistant Secretary for Tax Policy, would have said – upside down ways. Frequently tax expenditures have benefited those at the top the most and weren’t effectively designed to achieve their commonly understood goals.

This has changed over recent decades with the advent of provisions like the Earned Income Tax Credit (EITC) and Child Tax Credit (CTC), which importantly address the criticism of tax incentives being upside-down. But new provisions like the Premium Tax Credit (PTC) in the Affordable Care Act, the advance CTC, and now the green credits in the Inflation Reduction Act (IRA) are breaking new ground. They are taking seriously the expertise of non-tax experts. And they are delivering tax credits in novel ways that augment their effectiveness—whether at improving health care outcomes, reducing child poverty, or catalyzing investments to combat the climate crisis. At the same time, while the fair distribution of tax burdens has long been a focus of tax policy, we are taking new approaches in areas like corporate taxation to enhance tax fairness.

Finally, the IRA provides us with a once-in-a-generation opportunity to modernize the IRS and bring one of our bedrock government institutions into the digital age. For too long, the IRS has been mired in 1960s technology and hamstrung by budget cuts and budget uncertainty. It hasn’t had the resources or funding stability to hire and train personnel with the expertise to effectively audit the largest corporations or complex webs of partnerships owned by high-net-worth individuals. And it hasn’t had the resources to provide the services that taxpayers deserve. A more modern IRS can embark on a dual mission of more efficiently collecting taxes owed, especially from the most well-resourced tax evaders, while also ensuring that working families and small businesses don’t overpay their taxes and receive the full credits for which they are eligible.

I would like to talk about each of these opportunities for transformation in turn.

Starting with international tax, one of the Administration’s top priorities has been to overhaul the international tax system for the first time since it was established in the 1920s, and to end the race to the bottom in corporate tax rates. Our work on a global minimum tax – which many of us know as Pillar 2 – will level the playing field for U.S. businesses, while also protecting U.S. workers and middle-class families.

We are now in the implementation phase of that work. In December, all 27 EU Member States agreed on a directive requiring implementation of the global minimum tax. Korea has enacted
legislation; Japan has proposed legislation; the UK is moving toward implementation; and many others are expected to follow.

As countries implement, new questions will arise and will need to be addressed in a coordinated manner. That is why we have established a process to provide guidance on an ongoing basis. As many of you are aware, earlier this month, the OECD/G20 Inclusive Framework agreed on the first tranche of administrative guidance to address the most pressing issues raised so far.

This guidance provides important clarity on key issues for U.S. taxpayers and ensures a common approach to these issues, thereby preventing double taxation.

While the guidance addresses many important issues, I want to highlight two. First, the guidance provides for clear and administrable treatment of taxes paid under the existing U.S. GILTI global minimum tax regime. This was the most common request we heard from taxpayers. Second, the guidance provides protection for credits arising through noncontrolled partnerships, which is crucial for the Low-Income Housing Tax Credit as well as the IRA’s clean energy tax credits. The guidance reflects guardrails to maintain the integrity of the global minimum tax, while at the same time protecting those important U.S. incentives.

There is also important work to be done domestically. Building on U.S. leadership as the first country to adopt a minimum tax on the foreign earnings of domestically-parented multinational businesses, we are committed to take the additional steps needed to implement Pillar 2. We have proposed a number of reforms that would make our tax system consistent with Pillar 2. And we believe the momentum and incentives created by so many of our allies implementing Pillar 2 means ultimately these reforms will be adopted here as well.

Turning to tax incentives, it is worth noting the increasingly impactful role the tax system is taking in addressing major social and economic challenges.

The Affordable Care Act demonstrated the power of the tax system in ensuring affordable health care coverage – and under this Administration has helped the country achieve the lowest uninsured rate ever. The Earned Income Tax Credit and Child Tax Credit have also shown how we can help working families through tax; the expansion of the CTC under President Biden helped cut the child poverty rate in half, to the lowest level in history.

The IRA is now directing that power towards one of our highest priorities at Treasury: the existential threat posed by climate change.
As President Biden has said, this decade is the “decisive decade” to address climate change. To avert the most severe impacts, the scientific consensus is that we need sharp emissions reductions by 2030.

The Inflation Reduction Act puts us on a credible path to meeting our emissions reduction goals by making the most ambitious climate investment in our nation’s history – and the majority of this investment is made through tax incentives.

That gives us at Treasury, and our colleagues at IRS, the humbling responsibility of implementing this historic law. We feel a deep commitment to getting it right.

The IRA clean energy credits have several goals and many novel features. Reducing carbon emissions are at their core. They evidence a commitment to science and innovation, catalyzing investment in both existing and cutting-edge clean energy technologies, while shifting towards a technology-neutral approach over time.

In addition, these credits will strengthen critical supply chains to ensure investments to reduce carbon emissions come to fruition. And they will create good jobs and economic opportunity in communities that have historically been left behind.

Like the ACA and advance CTC, these clean energy credits also include novel delivery mechanisms, like elective pay and transferability, that will boost their impact.

As a result, the IRA is a challenging law to implement. Many of its provisions are not only new, but also introduce new concepts into the tax code and tax administration. Some require deep scientific expertise. Consequently, this has been an all-hands-on-deck effort at Treasury and IRS, and we are working closely with colleagues across the federal government who bring vast expertise to bear. We’re also engaging with stakeholders – including reviewing over 4,000 comments received to date – to inform our guidance and rulemaking.

The law’s climate and economic impact is already being felt. Since the IRA passed, companies have announced over 90 major new clean energy projects representing $90 billion in new investments – in critical areas such as batteries, solar, wind, and electric vehicles.

We are working around the clock to ensure that the law is implemented effectively and as Congress intended. That means ensuring that eligible taxpayers know about the law’s important incentives and have the ability to access them, as well as putting in place strong protections against fraud and abuse.
In the less than 6 months since IRA was enacted, we have made tremendous progress, completing nearly two dozen guidance projects. Among those projects was initial guidance to ensure we are creating good jobs and building career pathways by triggering the climate provisions’ enhanced incentives if projects pay prevailing wages and employ registered apprentices.

But we are still at the start of this journey. To meet our climate goals and achieve the IRA’s full potential, we’ll need to catalyze trillions in private investment over the coming decade. That is why we are hard at work to issue guidance and provide the clarity and certainty that will enable even more investments to move forward.

While we are on the topic of the IRA’s tax provisions, I also want to discuss the IRA’s corporate tax reforms, which enhance economic fairness and help pay for the cost of these incentives.

In recent years, many of the largest and most profitable corporations in our country paid no federal income tax while reporting substantial financial statement income. While book income and taxable income are different measurements used for different purposes, they are both approximations of economic income.

Historically, corporations have had an incentive to reduce or eliminate taxable income while maximizing financial statement income. This has had damaging effects on the accuracy of both systems and has led to the paradoxical result that many highly profitable corporations report losses to the IRS.

The Corporate Alternative Minimum Tax is changing this by imposing a new 15 percent minimum tax on the financial statement income of corporations with three-year average financial statement income of over $1 billion.

The IRA also includes a 1 percent excise tax on stock buybacks by the largest public corporations. This new tax will reduce the relative tax advantage of stock buybacks over dividends and lead to more balanced treatment of distributions. Not only will this lead to more efficient decisions about distributions, but it will also increase U.S. tax receipts from foreign investors, who do not pay U.S. capital gains tax when they sell stock but do pay tax on dividends they receive.

Even so, some of the largest and most profitable companies – including oil and gas companies making record profits – have decided to double down on buybacks. That is why President Biden proposed raising the tax on stock buybacks to 4 percent in his State of the Union address on Tuesday.
By ensuring large, profitable companies and high-income individuals pay their fair share through these provisions and others, we are making our tax system and economy work better for everyday Americans.

Turning to the last topic, we will not be able to implement these key tax provisions effectively without a modern IRS.

But for decades, the IRS been underfunded and overworked. It has lacked the resources to properly serve the American people and to enforce tax laws among high-earners and large corporations.

Due to this underinvestment, the agency answered 15% of the calls it received from taxpayers in 2021 and audited 80% fewer millionaires than it did ten years ago.

The American people deserve better. That is why the IRA included $80 billion in long-term funding for the IRS.

These new resources for the IRS will do two things: dramatically improve the customer service experience for the American people and ensure high-income and corporate tax evaders pay the taxes they owe.

This more balanced administration of the tax law will not only cut down on high-end tax evasion, but also ensure that individuals and businesses receive the proper amount of credits and deductions the tax law provides. This will improve people’s lives and increase confidence in the Federal tax system, and thus voluntary compliance.

While improvements won’t be complete overnight, taxpayers can expect to feel real differences during this year’s filing season. To provide some examples:

We are significantly improving IRS phone service. As I mentioned, during the most recent filing season, the IRS answered 15% of calls. Since the IRA’s passage, the IRS has hired 5,000 new Customer Service Representatives to respond to inquiries. We are already seeing the results of these investments: a report released yesterday showed that for the first two weeks of filing season, live IRS agents answered 89% of calls. When automated assistance is included, the IRS answered 93% of customer calls— a demonstration of how the IRS is modernizing customer service.

IRS Taxpayer Assistance Centers have been massively understaffed and under-resourced. This will soon change. We expect to triple the number of Americans served at IRS tax assistance centers to at least 2.7 million Americans.
This funding will also bring the IRS into the 21st century technologically. The IRS is rolling out new digital options for individuals and small business owners, making tax filing easier to navigate. This will save millions of Americans and small businesses time and money.

Finally, the IRS is also moving forward on scanning millions of individual paper returns – and has made significant progress on this front already. Since the 1970s, IRS employees have been entering the numbers from paper returns into the agency's computers, one digit at a time. This work is painstaking and time-consuming; scanning will reduce this workload and bring the agency into the digital age.

The long-term funding provided by the IRA will also enable the IRS to cut down on the tax gap among high earners. This is a fundamental issue of fairness.

For years, the IRS has lacked the resources to effectively audit high net worth individuals and corporations. Together, these groups owe a disproportionate amount of unpaid taxes. In 2019, the top one percent of Americans were estimated to owe over a fifth of unpaid taxes. For those taxpayers who are unwilling to comply, the IRS will now have the resources to ensure that the proper amount of tax is paid.

At the same time, Secretary Yellen has directed that the additional funding not be used to raise audit rates for small businesses or households making under $400,000 a year relative to historical levels.

In fact, we expect audit rates will decline for honest taxpayers once the IRS has the right technological infrastructure in place.

Finally, one of the Department's top priorities in improving service is ensuring that people receive the tax credits and deductions for which they are eligible.

To achieve goals such as reducing poverty, improving health outcomes, supporting working families, and increasing college enrollment, policymakers have repeatedly turned to tax credits. In recent decades, these have included the EITC, CTC, PTC, and American Opportunity Tax Credit – among others.

This has transformed the mission of the IRS. Not only must the IRS help people understand and meet their tax responsibilities, it must also help them avoid paying too much tax by missing out on credits they are eligible for. Its goal now should not simply be enforcement but accuracy.
That is why we are working to improve outreach and ultimately remove frictions and barriers that prevent people from claiming credits and deductions for which they are eligible.

All of this work should and will be informed by research on what methods work for reaching underserved communities.

For example, economists in the Office of Tax Analysis looked at the effect of sending informational letters to individuals who had previously paid a penalty for lacking health insurance. These letters explained tax incentives for health insurance under the ACA. They found that, among middle-aged adults, the letters resulted in one fewer death for every 1,587 letters sent. That is a pretty inexpensive way to save a life – 1,500 postage stamps.

This research – along with much of what I have already discussed – advances this Administration’s broader equity goals.

In his first executive order, President Biden directed agencies to examine their policies and programs to identify whether and how they perpetuate barriers to equal opportunity.

Our team at Treasury has taken that mandate to heart. We are investigating structural barriers to opportunities for historically underserved communities and are trying to better understand the impact of the tax system along a number of different demographic characteristics. For example, since the IRS does not collect information about the race or ethnicity of taxpayers, we have improved upon existing methods for imputing race and ethnicity on tax data – essentially making a statistically informed guess about race and ethnicity – in order to analyze policies. Last month, we released new research using this method to examine the distribution of several of the Code's largest tax expenditures by race and Hispanic ethnicity.

Our long-term goal is to foster an economy that unleashes the economic potential of people of color and other historically marginalized communities, leading to greater financial security and more broadly shared prosperity for all. Fairness in the tax code is essential to actualizing this vision.

Before I close, I would be remiss if I didn't discuss our more concrete guidance plans. As always, you can expect us to release guidance throughout the year.

With respect to the IRA’s climate provisions, we plan to issue initial guidance shortly for two key place-based incentives. The IRA recognizes that legacy pollution has disproportionately affected some communities, including low-income communities, communities of color, and communities that have borne the brunt of energy production. To help accelerate investments
in these areas, we will be publishing initial guidance on the bonus for wind and solar investments in low-income communities. We will also be providing guidance on the Advanced Energy Project Credit, a $10 billion investment in pathbreaking clean energy technologies. Of that $10 billion, 40% is dedicated to areas that have had coal mines or coal plants close.

In March, we will – as previously announced – be releasing a notice of proposed rulemaking for 30D, the clean vehicles tax credit.

And we have already committed to releasing additional guidance on the green credits’ prevailing wage and apprenticeship provisions, which went into effect in late January.

In the coming months, we will also be providing additional clarity on the IRA’s corporate taxes. These IRA guidance projects – and many others planned – will build on the nearly two dozen we have already issued.

This IRA work complements our ongoing efforts to issue guidance in multiple other areas – such as implementing other key legislation passed during this Administration, like the CHIPS and Science Act, the Infrastructure Investment and Jobs Act, and SECURE 2.0.

As we roll out further guidance on these and other issues over the coming months, I hope you will help us continue to communicate our work to the wide array of stakeholders interested in these laws. And if you are interested in helping on a full-time basis, we are hiring. I can say without a doubt that one of the greatest joys of my job is working with the extraordinarily talented and dedicated group of public servants in the Office of Tax Policy.

In closing, thank you again for having me today. It was a privilege to speak to you, I look forward to continuing the conversation, and I am grateful for all you do to uphold the tax law and further good tax policy.

Thank you.