[Name]
[Address]
[City, State ZIP Code]
[Email Address]
[Phone Number]
[Date]

The Honorable [Congressperson's Full Name]
[Office Address]
[City, State ZIP Code]

Subject: Ending the "Buy, Borrow, Die" Loophole: A Targeted and Constitutional Tax Reform

Dear Representative [Last Name]**,**

Today, ultra-wealthy individuals can live off their investment portfolios and fund lavish lifestyles without ever paying income or capital gains taxes. Meanwhile, ordinary Americans pay tax on every paycheck. This is due to a widely exploited tax avoidance strategy known as "Buy, Borrow, Die."

I urge you to support a common-sense, constitutionally sound reform to close this loophole—one that taxes stock wealth only when it's spent like income, not when it's invested.

Summary of the Proposal

- **Closes a major loophole** that lets billionaires borrow against stock and avoid paying tax on gains, even when funding personal consumption.
- **Treats large personal-use loans as constructive sales** of stock, triggering capital gains tax while preserving credits to avoid double taxation.
- **Preserves investment incentives** by exempting business and investment-related borrowing.
- **Upholds the Constitution** using established doctrines like constructive realization, economic substance, and substance-over-form.
- **Prevents permanent tax escape** by eliminating the step-up in basis for stock used in tax-avoidance loans.
- **Includes anti-abuse protections** against shell companies, trust manipulation, and offshore evasion.

Updated Policy Proposal

1. Deemed Sale of Stock-Backed Loans for Personal Use

- Loans over $10 million, secured by publicly traded stock, and used for personal consumption (luxury items, homes, or controlled private businesses), will be treated as constructive sales.
- This triggers capital gains tax based on market value at the time of borrowing.

2. Tax Credits to Prevent Double Taxation

- If the loan is later repaid by selling stock, taxpayers receive a credit for tax already paid.

3. Reporting and Compliance Requirements

- Stock-backed loans over $1 million must be reported to the IRS.
- Borrowers must declare intended use and submit line-item breakdowns of how funds are spent.
- Tax applies only to non-exempt uses (personal consumption or control-based acquisitions).

4. Step-Up in Basis Denial

- Step-up in basis is denied on stock used in loans taxed under this proposal.
- Original basis is retained by heirs, ensuring gains aren't permanently untaxed.

5. Refinancing Rules

- Tax-free refinancing is allowed only if:
  - The original loan was non-taxable.
  - The refinance repays principal and interest only.
  - No new cash is withdrawn.
  - Only one refinance per 5 years; must repay in 15 years.

6. Anti-Avoidance Measures

- Tax applies even if personal use is disguised through trusts, shell companies, related parties, or offshore structures.
- The IRS may recharacterize transactions to preserve economic substance.

Legal Foundation

The proposal draws on established doctrines:

- Substance-over-form (Gregory v. Helvering): Tax law focuses on economic reality over legal structure.
- Constructive receipt: Income is taxable when made available, even if not taken.
- Economic substance: Transactions must serve a business purpose beyond tax avoidance.

These doctrines empower Congress and the IRS to treat these loans as realizations without violating the 16th Amendment. Recent decisions, such as *Moore v. United States* (2024), support broader interpretations of income when wealth is accessed.

Real-World Example: Elon Musk's Twitter Purchase

In 2022, Elon Musk funded his Twitter acquisition with $13 billion in loans backed by appreciated Tesla stock.

ETFs Under current law:

- No capital gains tax is triggered.
- If Musk dies before repaying the loan, his heirs inherit the stock at a stepped-up basis and owe **zero tax** on the appreciation.

Under this proposal:

- The IRS would treat the $13 billion loan as a constructive sale of Tesla stock.
- Musk would owe approximately $2.96 billion in capital gains tax (at 23.8%).
- If he later repaid the loan with actual stock sales, he'd receive a full tax credit.
- If he died with the loan still open, his heirs would retain the **original cost basis** (not stepped-up) on that stock.

This ensures stock used as cash is taxed like cash—while investors who reinvest remain untaxed.

Why This Matters

This reform doesn’t raise rates. It simply ensures that when billionaires use stock wealth for personal enjoyment, they pay tax like everyone else. It preserves investment incentives while stopping tax-free luxury spending and intergenerational tax escape.

I welcome the opportunity to work with your staff to refine this proposal further.

Thank you for your continued service.

Sincerely,
[Name]

Appendix: Supporting Comparison & Legal Doctrines

Current Law vs. Proposed Reform

Step	Current Law	Proposal
Borrow against stock	No tax	Deemed sale triggers capital gains tax
Die with open loan	Heirs get step-up in basis	No step-up for loaned stock
Tax ever paid?	Probably never	Always paid once if used for consumption

This table illustrates how the reform ensures taxation occurs only when wealth is accessed and used as income, not while it remains invested.

Legal Foundations

These doctrines support the constitutionality of the proposal:

- **Substance-over-Form Doctrine** (Gregory v. Helvering, 1935):
  Tax outcomes are determined by the economic reality of a transaction, not its legal form.
- **Constructive Receipt Doctrine** (26 CFR §1.451-2(a); Veit v. Commissioner, 1947):
  Income is considered received when it is made available to the taxpayer, even if not physically received.
- **Economic Substance Doctrine** (IRC §7701(o); Knetsch v. United States, 1960):
  Transactions must change the taxpayer’s economic position in a meaningful way and have a substantial non-tax purpose.

These doctrines empower Congress and the IRS to treat large, personal-use loans secured by stock as constructive realizations.

Anti-Avoidance Provisions

To ensure effectiveness and prevent exploitation:

1. **Personal Use Masked as Business Use**: Requires documentation and majority-use test.
2. **Shell Companies & Trusts**: Tax applies if the borrower retains beneficial use.
3. **“Passive” Investments with Control**: Minority stakes with operational control are taxed.
4. **Related-Party Intermediaries**: Transfers to family or controlled trusts are included.
5. **Charitable Loopholes**: Controlled nonprofits or foundations do not exempt the use.
6. **Offshore Structuring**: U.S. citizens taxed on global activity.
7. **General Anti-Abuse Clause**: The IRS may recharacterize any transaction designed to evade the tax.

Summary

This appendix reinforces that the proposed reform is grounded in well-established tax principles, clearly distinguishes between investment and consumption, and includes safeguards to prevent abuse. It offers a practical, targeted way to ensure that the ultra-wealthy pay tax once—and only when wealth is used like income.