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FACT Sheet

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U.S. Should Not Favor Foreign over U.S. Profits

Tax Multinationals the Same as Wholly Domestic Companies

The new tax law, the Tax Cuts and Jobs Act (TCJA), changed the tax system from one in which U.S. corporations paid taxes equally on all their profits to one in which they pay lower taxes on profits booked outside the United States. By lowering the tax rate on foreign profits, the tax code now encourages U.S. corporations to move U.S. jobs and profits offshore.

The new law has provisions to prevent profit-shifting, but they are flawed in three major ways: 1) The rules are complicated; 2) The complexity creates loopholes; 3) Even if the safeguards worked, the offshore tax rate is no more than half the domestic rate.

An easier, fairer, and more effective way to stop offshore profit-shifting is to equalize the tax rates for U.S. and foreign profits. The following comparison explains the two approaches.

Tax Cuts and Jobs Act[1]	An Alternative Proposal
✓ Creates a Global Intangible Low Tax Income (GILTI) Tax, which exempts all profits under 10% of a company's overseas tangible investments. As a result, many companies will pay no U.S. taxes on their offshore income. Even when GILTI is subject to taxation, it is taxed at 10.5% (half the domestic rate). The nonpartisan Congressional Budget Office (CBO) says GILTI encourages moving U.S. jobs and factories offshore to get that lower rate. ✓ Creates a Foreign Derived Intangible Income (FDII) Tax, which provides a 37.5% deduction for foreign sales income minus 10% of U.S. tangible investments. ✓ Creates a Base Erosion and Anti-Abuse Tax (BEAT), which puts a 10% tax on certain payments between U.S. companies and their foreign affiliates. While helpful, the revenue raised by BEAT does not make up for the revenue lost by the other TCJA international provisions. ✓ CBO estimates that $235 billion in corporate income will shift offshore each year.	✓ Eliminate the lower rates, deductions, and loopholes for foreign profits and instead tax foreign profits at the same rate as domestic profits.

[1] Richard Phillips, "Understanding and Fixing the New International Corporate Tax System", *Institute on Taxation and Economic Policy*, July 17, 2018, *available at* https://itep.org/understanding-and-fixing-the-new-international-corporate-tax-system/.

Why Taxing Foreign and Domestic Profits at the Same Rate Is Better Policy

✓ **Equal rates remove an unfair tax advantage favoring multinationals over domestic companies.**

Smaller, domestic businesses accept the built-in advantages of multinationals that are inherent in a free market — bulk purchasing discounts, easier access to capital, branding opportunities, and more. But when tax policy puts its thumb on the scale to favor multinationals over wholly domestic firms, that is an unjustified, artificial advantage.

✓ **Lower tax rates on foreign profits encourage tax dodging, distort decision making, and fuel the drive for short-term paper profits over long-term U.S. tangible investments.**

General Electric, an iconic U.S. company, is a leading example. GE employs more than 600 accountants, attorneys, and other staff to handle their taxes. According to the Institute on Taxation and Economic Policy, GE's tax avoidance was so effective that it managed to pay nothing in federal income taxes on over $40 billion in profits between 2008-2015.[2] Its tax division has often generated the majority of its U.S. profits. GE's mission statement is "to invent the next industrial era, to build, move, power and cure the world."[3] The mission is not to find and exploit the best tax dodges and profit from refundable corporate tax credits. But GE is just one of many U.S. multinationals that divert enormous resources to tax avoidance strategies rather than product development, expansion into new markets, or other investments to secure a more profitable financial future.

✓ **Corporations should pay — like the rest of us — for the benefits they receive.**

Multinationals recruit talent from our schools and universities; they transport goods using our roads; advertise and deliver products using our telecommunication systems; their patents are protected by our legal system; and their investments and trade are protected by U.S. law enforcement, treaties, and military. Their foreign sales are built upon a U.S. foundation. Multinationals should pay for all the benefits they receive from the United States. Discounts for profit-shifting and foreign sales encourages freeloading.

✓ **The tax race to the bottom hurts local communities**

Aggressive corporate tax dodging and abuse of tax havens has created a race to the bottom. The results are a shift in the U.S. tax burden to smaller businesses and individual taxpayers forced to pick up the tab for multinationals. Rising deficits and austerity measures leave U.S. families and businesses with a crumbling infrastructure and a growing inability to pay for basic services.

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[2] Matthew Gardner, Robert S. McIntyre, and Richard Phillips, "The 35 Percent Corporate Tax Myth", *Institute on Taxation and Economic Policy*, March 9, 2017, *available at* https://itep.org/the-35-percent-corporate-tax-myth/.

[3] Jeffrey R. Immelt, "GE 2014 Annual Report - CEO Letter", *General Electric Company*, February 27, 2015, *available at* https://www.ge.com/ar2014/ceo-letter/.