REMOVING INCENTIVES FOR OUTSOURCING ACT

The *Removing Incentives for Outsourcing Act* closes the loophole that allows U.S. companies to use foreign tax credits (FTCs) to shelter profits in tax havens. Doing so eliminates a perverse incentive for U.S. companies to shift jobs and operations overseas in order to maximize the value of their tax havens.

Current Law Encourages Outsourcing

Under current law, a U.S. corporation may use foreign tax credits (FTC) to reduce U.S. tax liability on offshore profits by whatever amount the company paid in taxes in the country in which it earned the profits. As the Institute for Taxation and Economic Policy (ITEP) has repeatedly observed, a company that accumulates excess foreign tax credits may use those credits to reduce U.S. taxes on profits from other countries — including tax haven countries with little or no corporate taxes.

Even worse, the new law provides a perverse incentive for companies to shift jobs and operations overseas in order to preserve the strategic value of tax havens. Former National Economic Council Director Gene Sperling has summarized the problem as follows

> [The Tax Cuts and Jobs Act] not only encouraged companies to move profits to tax havens, but it actually encouraged them to simultaneously move jobs and operations such as manufacturing to industrialized countries that had typical tax rates and to shift more profits to tax havens. Why? Because if you had $100 million of profits in Bermuda facing no tax, you might have still had to pay $10 million in U.S. taxes to meet the new global minimum tax. But if you moved a factory to Germany that made $100 million and paid 20 percent in taxes there, you could still pay zero on your profits in Bermuda because the average taxes paid on your global profits (from both Bermuda and Germany) would be the global minimum rate of 10[.5] percent.* ***This perverse design means the more a U.S. multinational shifts jobs and operations to industrialized nations with similar tax rates to the U.S., the more it can get away with shifting more and more profits to tax havens***.

Gene B. Sperling, *How the Tax Plan Will Send Jobs Overseas*, THE ATLANTIC (Dec. 8, 2017).

The Solution

- ***This bill institutes a "per-country" minimum tax instead of a blended or "global rate" under current law.*** This change removes the incentive for companies to shift U.S. jobs and physical operations overseas (to countries with tax rates similar to the U.S.) in order to preserve the value of using tax havens. According to an analysis performed by Dr. Kimberly Clausing of Reed College, applying the GILTI tax on a per-country basis would increase the tax base by $113.5 billion ($107.5 in 2015 dollars) or more than 2.5 times the amount of the GILTI tax when applied globally.
- ***This bill eliminates companies' ability to deduct 10 percent of their tangible assets before the tax rate on foreign income applies***. This change would end the tax incentive created by the deduction to shift operations offshore and broaden the base of the tax on Global Intangible Low-Taxed Income (GILTI).
- Finally, this bill requires the Joint Committee on Taxation (JCT) to conduct a study of various proposals for taxing overseas income and evaluate the options according to whether the proposal minimizes opportunities for avoidance of U.S. taxes and minimizes incentives for outsourcing American jobs.

Please contact Doug Calidas in Senator Amy Klobuchar's office if you have any questions or to cosponsor the bill. He can be reached at 202-228-6314 or doug_calidas@klobuchar.senate.gov.

* The final version of the Tax Cuts and Jobs Act of 2017, signed into law on December 22, 2017, included a global minimum rate of 10.5 percent.