Oxfam America

International Tax Policy and US Competitiveness

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Executive Summary

The main concern raised against the Made in America Tax Plan[1] is that it could harm US competitiveness. This memo seeks to clarify the confusion around international competitiveness and argues that to achieve the kind of competitiveness that matters most to working Americans, the United States should go back to the worldwide tax system in place prior to the 2017 Tax Cuts and Jobs Act (TCJA), though without the big "deferral" loophole that existed then. It concludes that:

- There is a tradeoff between the competitiveness of American workers and that of US multinational corporations. The US long-term interests are more closely aligned with the interests of American workers. The worldwide system (i.e., equalizing the corporate tax rates on domestic and foreign profits) maximizes the competitiveness of American workers.
- Evidence shows that there is ample room to increase the corporate tax rate without jeopardizing the competitiveness of American workers, as the current US domestic rate is significantly lower than the rates of most of our trading partners.
- A GILTI rate of 21% or higher will have little impact on the competitiveness of US multinational corporations' foreign operations, as most destination countries of US foreign investment have effective tax rates higher than 21%.
- An international agreement to set a global minimum effective tax rate of 15% or more will shore up a return to a worldwide system by (i) mitigating concerns about the competitiveness of US multinational corporations' foreign operations; (ii) to a large extent, leveling the playing field between US and foreign multinationals on global financial markets; and (iii) further improving the competitiveness of American workers.

Table 1a: Country-by-country Effective Tax Rates of Large US Multinational Corporations

Country	Effective Tax Rate		
	2018	**2017**	**2016**
United States	8%	16%	17%
Top 10 US trading partners	18%	19%	20%
Top 10 destinations of US foreign investment	19%	19%	20%
Top 10 tax havens	4%	4%	5%
All other foreign countries	16%	19%	23%
All countries (incl. USA)	9%	14%	15%

Source and notes: See Table 1b in Appendix, which breaks down this data by major countries.

[1] US Department of Treasury (April 2021) "Made in America Tax Plan". https://home.treasury.gov/system/files/136/MadeInAmericaTaxPlan_Report.pdf

Defining Competitiveness in Terms of the Tax System

There are two distinct concepts of US competitiveness:

1. The competitiveness of US multinational corporations on global markets, relative to multinational corporations based in foreign countries.
2. The competitiveness of the United States as a destination of investment, relative to other countries.

The first type of competitiveness principally concerns investors in US multinational corporations. Importantly, they are not the same as American investors*,* since about 40% (and growing) of the stock of US corporations are owned by foreigners,[2] while 401(k) holders and other American investors own diversified portfolios that include stocks and bonds of both American and foreign corporations. Multinational corporations are truly "multinational" and not necessarily loyal to their home country. This memo will refer to this first type as "competitiveness of US multinationals".

The second type of competitiveness directly concerns American workers. While US investors can easily buy foreign assets, US workers cannot easily relocate abroad, making their livelihoods dependent on the success of US-based ventures. US investors have also done much better financially than American workers in recent decades (notably but not only because capital has been taxed less than labor). For these reasons, Oxfam America believes that US policymakers should prioritize the second type of competitiveness, which this memo will call "competitiveness of American workers".

There is a tradeoff between the two types of competitiveness, which needs to be considered when formulating tax policy. A territorial system (i.e., imposing no US tax on the foreign profits of US multinational corporations) maximizes the competitiveness of US multinationals. A worldwide system (i.e., taxing the foreign profits of US multinationals at the same rate as their domestic profits) maximizes the competitiveness of American workers. According to economic theory, it is impossible to design a tax system that simultaneously maximizes both types of competitiveness.[3]

Prior to the TCJA, the United States had a worldwide tax system on paper with a 35% rate. However, the huge deferral loophole (which the TCJA rightly rescinded) made it a hybrid system in practice: it allowed US multinationals to indefinitely defer taxes on foreign profits. Post-TCJA, the United States has a hybrid system both on paper and in practice, with a tax rate on foreign profits (i.e., the GILTI rate of 10.5%)[4] equal to half the rate on domestic profits (i.e., the statutory rate of 21%). This hybrid system makes neither US multinationals nor American workers as competitive as they otherwise could be.

According to economic theory, the international competitiveness of American workers depends on the domestic corporate rate and the rates prevailing in trading partner countries. All else

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[2] Rosenthal, Steve and Theo Burke (October 20, 2020) "Who Owns US Stocks? Foreigners and Rich Americans", Tax Policy Center. https://www.taxpolicycenter.org/taxvox/who-owns-us-stock-foreigners-and-rich-americans

[3] Toder, Eric (2012) "International Competitiveness: Who Competes Against Whom and for What?", Tax Law Review, Vol.65, pp.505-34. https://tpc.io/3wb5Emg

[4] The GILTI rate is scheduled to increase to 13.125% in 2025. Moreover, because the GILTI regime gives a credit of only 80% of foreign taxes paid, the effective minimum rate on foreign profits (combining US and foreign taxes) will be 16.4% from 2025 onwards.

being equal, the lower the US rate relative to foreign rates, the more likely businesses are to invest and hire in this country. However, in practice, the correlation between corporate tax rates and business investment decisions, including hiring, is weak.[5] That is because everything else is not equal.

Taxes are only one factor influencing the location of investment; tax competitiveness is only a minor element of overall competitiveness. The United States is an attractive investment destination for many other reasons: it offers the largest market in the world, an educated and dynamic workforce, strong rule of law, etc. The United States can therefore charge a higher corporate tax rate than those of its trading partners and still remain a competitive destination for investment. The revenue raised by the Made in America Tax Plan are meant to fund infrastructure and human capital, which will further increase the attractiveness of the United States as an investment destination.

What Does the Data Say?

Completely comparable data is hard to come by to rank countries by tax competitiveness. Tax competitiveness should be measured as follows:

- Tax competitiveness of multinationals: The global effective corporate tax rate, i.e., the ratio of total corporate tax paid (state and local, federal and foreign) to pre-tax global corporate profits.
- Tax competitiveness of workers: The domestic effective tax rate, i.e., the ratio of state and local plus federal taxes (but excluding federal taxes on foreign profits like GILTI and Subpart F income) to domestic pre-tax profits.

Table 1a and 1b provide aggregated country-by-country tax rate data collected by the US Internal Revenue Service (IRS) for large US multinationals. The advantage of this data set is that it provides effective tax rate data on a comparable country-by-country basis. A drawback is that federal taxes paid on foreign profits (GILTI, Subpart F and, for 2018, the TCJA repatriation tax) are not separated out. That means that the true US effective tax rate is lower than what Tables 1a and 1b indicate: the competitiveness of American workers in the current system is understated.

Tables 1a and 1b show that US multinationals pay significantly less tax on the profits derived from their US operations than on profits from their operations in our major trading partners. Indeed, not a single of our top ten trading partners has a lower rate post-TCJA. The conclusion is clear: **there is ample room to increase the domestic corporate tax rate without jeopardizing the competitiveness for American workers.**

The Case for the Worldwide System in the United States

A high US tax rate on US multinationals' foreign profits (the so-called GILTI rate) increases taxes on their foreign operations, disincentivizing further outsourcing and thereby improving the competitiveness of American workers.

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[5] Bivens, Josh and Hunter Blair (May 9, 2017) "'Competitive' distractions", Economic Policy Institute. https://bit.ly/3hCxAf4

The GILTI rate also matters indirectly because, to meet any given revenue goal, a higher GILTI rate enables lowering the domestic rate, which further increases the competitiveness of American workers. Assuming a four-to-one split between domestic and foreign profits,[6] every increase in the GILTI rate by four percentage points would allow a decrease in the domestic rate by one percentage point. For example, a single worldwide rate of 28% would raise about as much and would be better for the competitiveness of American workers than a GILTI rate of 20% and a domestic rate of 30%. The domestic rate can be higher or lower than that to meet the wanted revenue goal. **But for any revenue goal set by Congress, a worldwide system (equalizing GILTI and domestic rates) maximizes the competitiveness of American workers.**

The tradeoff of going back to the worldwide system is that the increase in the rate on foreign profits (the GILTI rate) that it requires will decrease the competitiveness of US multinational corporations on global markets. Two consequences should be considered: one about their international operations, the other about their cost of capital on global financial markets.

First, a higher GILTI rate will make US multinationals' operations in low-tax countries like Ireland more costly relative to what foreign multinationals pay for similar operations in those same countries. However, the goal is to create jobs in America, not in Ireland. A move to a worldwide system would prevent incentivizing the offshoring of manufacturing jobs to serve the US market.

That said, there is an argument that a higher GILTI rate will increase the cost of foreign operations that cannot easily be repatriated to America, like marketing and sales activities aiming at foreign markets. But such activities typically represent only a small share of US multinationals' profits. More significant is the impact a higher GILTI tax will have on the core business of some industries that, because of the nature of their products or services, need to invest abroad in order to sell abroad (see Table 2 in Appendix). Further, as foreign investments by US multinational corporations create spillover jobs in the United States (e.g., research and development, back-office functions), a high GILTI rate can hurt those US jobs in such industries.

Nevertheless, the GILTI tax is only relevant to operations in countries where US multinationals pay effective tax rates lower than the GILTI rate. That is because credits for foreign taxes can be applied against the GILTI tax. (In other words, with a GILTI rate of, say, 21%, US multinationals that pay a 12.5% tax on their operations in Ireland would have to pay a GILTI of 8.5% on the profits of those operations; but their GILTI tax would be 0% on their operations in all countries with rates above 21%.) Table 1b shows that among the top ten destinations of US multinationals' foreign investment, only Britain and Canada currently have rates lower than 21%, and not by much (especially considering that the British government has approved an increase in the UK statutory corporate rate from 19% to 25% effective in 2023). There are really only a handful of low-tax countries that compete with the United States for real operations like Singapore, the Netherlands, Switzerland, Ireland, and Hong Kong. They are countries with small workforces, hence among neither the top ten trading partners nor the top ten US foreign investment destinations. Besides, these countries are also tax havens and their importance as US trade partners may be overestimated because of transfer pricing distortions.[7]

[6] https://bit.ly/3fvq6Jm

[7] Setser, Brad (March 26, 2019) "When Tax Drives the Trade Data", Council on Foreign Relations. https://www.cfr.org/blog/when-tax-drives-trade-data

When US multinationals complain that a higher GILTI rate will hurt their foreign operations and the spillover US jobs servicing them, we are really talking only about the operations of some industries in a few small countries. The bulk of the US economy consists of purely domestic companies that are not directly affected by the GILTI at all (Table 2). And the bulk of US foreign investment takes place in countries where the GILTI does not apply thanks to tax credits (Table 1b). **A higher GILTI rate would have little impact on the competitiveness of US multinational corporations' foreign operations and related US jobs.**

Furthermore, **a global minimum tax (discussed below) will backstop US reforms and minimize the impact of the GILTI tax on the competitiveness of US multinationals' operations in low-tax countries**, as it will increase the taxes paid by foreign multinationals on similar operations in those countries up to the global minimum rate.

A second concern of multinational corporations about the worldwide system is that it increases their cost of capital on global financial markets. The worldwide system eliminates the incentive for US multinational corporations to artificially shift their profits to tax havens, as the same tax rate is applied to profits located in every country. Ending tax haven abuse results in a higher global effective tax rate, which reduces after-tax returns to investors, and which puts US multinationals at a disadvantage on global capital markets compared to foreign rivals based in countries that have adopted a territorial system (which is the case of most of our trading partners).

Ending tax haven abuse is not a bug of the worldwide system; it is a goal. It levels the playing field between US multinationals and US domestic businesses and other taxpayers who cannot take advantage of aggressive tax planning.

However, it does mean that US multinationals that want to buy foreign firms may have to pay more than their foreign rivals. But the goal is to incentivize companies to invest in America, not to splurge on foreign acquisitions.

It also makes US corporations cheaper targets of foreign acquisitions. A concern about the worldwide system is the appeal of so-called "inversions," in which a US firm merges into a (often smaller) foreign corporation in order to lose its US residence and avoid the GILTI tax. Inversions were a problem, though often exaggerated, before the TCJA when a 35% worldwide rate prevailed. However, Obama-era regulations largely stopped them. The Made in America Tax Plan includes even stronger provisions to prevent them, by treating foreign corporations owned by at least 50% of pre-merger shareholders or effectively managed from the United States like US corporations for tax purposes.

The Case for The OECD's Global Minimum Tax

The global minimum tax being negotiated under the auspices of the OECD provides a further protection against inversions and, more generally, offers a solution to the problem of competitiveness of US multinationals on global capital markets. An agreement would require all countries to create a tax similar to the GILTI on their multinationals, thereby putting all multinationals on a level playing field.

The Made in America Tax Plan will go hand-in-hand with this global agreement. The SHIELD tax will penalize multinational corporations based in countries that choose to opt out of the global minimum tax, such that they won't gain any competitive edge.

The Biden Administration has been pushing for a global minimum tax rate as close to their proposed GILTI rate of 21%. Recent reports indicate that the negotiations may eventually settle on a global rate closer to 15%. Although a complete level playing field is desirable, a six percentage-point difference between the GILTI and the global minimum rates is not much, and in most cases not worth the hassle of aggressive tax planning. It is less than half the difference between the current-law GILTI rate, which is scheduled to automatically rise to 16.4% in 2025, and the current global minimum rate, which is zero. (However, the Made in America Tax Plan will also broaden the GILTI base by applying it on a country-by-country basis, in line with the OECD negotiations, which will further increase the GILTI tax liability.) **A global minimum tax at 15% will to a large extent address concerns about the worldwide system's impact on the competitiveness of US multinational corporations on global financial markets.**

The global minimum tax will also improve the competitiveness of American workers by anchoring foreign countries' statutory tax rates, which have otherwise been trending downward for decades.

Conclusion

Competitiveness is not the only objective of international tax policy. Raising revenues to fund public goods and services and equity considerations are also important. And taxes are only a minor element of a country's or corporation's overall competitiveness. Nevertheless, concerns over competitiveness are legitimate. This note has emphasized that there is a difference and indeed a tradeoff between the competitiveness of American workers and that of US multinational corporations. **It concludes that the Made in America Tax Plan will increase the competitiveness of the United States as a destination of investment, which is in the interest of American workers.**

More specifically, this note has argued that:

- Evidence shows that there is ample room to increase the corporate tax rate without jeopardizing the international competitiveness of American workers, because the current US domestic rate is significantly lower than most of our trading partners' rates.
- The worldwide system (i.e., equalizing the corporate tax rates on domestic and foreign profits) maximizes the international competitiveness of American workers.
- A GILTI rate of 21% or higher will have little impact on the competitiveness of US multinational corporations' foreign operations, because most destination countries of US foreign investment have effective tax rates higher than 21%.
- An international agreement to set a global minimum effective tax rate of 15% or more will shore up a return to a worldwide system by (i) mitigating concerns about the competitiveness of US multinational corporations' foreign operations; (ii) to a large extent, leveling the playing field between US and foreign multinationals on global financial markets; and (iii) further improving the competitiveness of American workers.

Table 1b: Country-by-country Effective Tax Rates of Large US Multinational Corporations

Country	Effective Tax Rate		
	2018	**2017**	**2016**
United States	8%	16%	17%
Top 10 US trading partners	18%	19%	20%
China	21%	25%	23%
Canada	17%	16%	16%
Mexico	31%	30%	33%
Japan	23%	20%	23%
Germany	21%	22%	25%
United Kingdom	11%	11%	10%
Korea, Rep.	7%	22%	25%
India	40%	34%	29%
Taiwan	18%	15%	18%
France	23%	35%	22%
Top 10 destinations of US foreign investment	19%	19%	20%
India	40%	34%	29%
Mexico	31%	30%	33%
China	21%	25%	23%
United Kingdom	11%	11%	10%
Canada	17%	16%	16%
Philippines	22%	22%	21%
Germany	21%	22%	25%
Japan	23%	20%	23%
Brazil	26%	27%	24%
France	23%	35%	22%
Top 10 tax havens	4%	4%	5%
Bermuda	0%	2%	1%
Singapore	4%	5%	6%
Netherlands	5%	5%	6%
Luxembourg	1%	1%	1%
Switzerland	6%	6%	6%
Ireland	11%	13%	9%
Cayman Islands	0%	0%	0%
Puerto Rico	1%	1%	2%
Hong Kong	9%	9%	11%
Barbados	0%	1%	1%
All other foreign countries	16%	19%	23%
All countries (incl. USA)	9%	14%	15%

Source: Oxfam, based on IRS country-by-country data of US multinationals with over $800 million in annual revenue. https://www.irs.gov/statistics/soi-tax-stats-country-by-country-report (Table 1.B excluding loss-making companies since they owe no tax, and excluding stateless entities). Effective Tax Rate is defined as cash tax paid divided by Profit before income tax. Except for a different grouping of countries, this is the same table as Table 3 in: Joint Committee on Taxation (March 21, 2021) “US International Tax Policy: Overview and Analysis”. https://www.jct.gov/publications/2021/jcx-16-21/

Notes:

- The US effective tax rate includes income tax paid on foreign income (Subpart F and, from 2018, GILTI) and is hence slightly overstated.
- In 2018 US corporations also had to pay a one-time “repatriation” tax on the profits that they had accumulated offshore over many years (to avoid US tax). This tax accrued in 2018, but is payable over eight years. It introduces a significant difference between the cash tax shown in this table and the accrued tax (which was 13%, 20% and 17% for the United States for respectively 2018, 2017 and 2016). In this case the cash tax therefore reflects better

the effective tax rate for domestic operations. The difference between accrued and cash taxes is a matter of payment timing and usually cancels out over time or when aggregating countries. The totals for top ten countries are not affected by this difference, but some rates for individual countries and years are (e.g., the accrued rate for Korea in 2018 is much higher than the cash rate shown in the table).

- Top ten trading partners are ranked by the sum of imports and exports of goods and services (2020). Source: US Census. https://www.census.gov/foreign-trade/Press-Release/current_press_release/index.html (Exhibit 20)
- Top ten destinations of US foreign investment are ranked by number of employees in foreign subsidiaries of US multinational corporations. Source: IRS country-by-country data (2018).
- Tax havens are defined as countries with effective tax rates below the 2018 US effective tax rate (except the United Kingdom listed among top ten trading partners) and are ranked by profits of US multinationals. Source: IRS country-by-country data (2018). Note that Singapore, Netherlands, Switzerland, Ireland, Puerto Rico and Hong Kong are also significant trading partners, although not in the top ten. Barbados is not listed separately for 2017 and 2016; the data shown here for these years is for a broader group of countries called "Americas, other countries."

Table 2: Impact of international tax policy on US jobs by industry

Categories of industries	Impact of international taxation on US jobs	Industries
Group 1: Internationally mobile industries Industries that can locate production away from market, where costs (including taxes) are lowest	The worldwide system is better to protect American jobs as it eliminates the advantage of low-tax countries while enabling to lower the domestic rate to meet any given revenue goal	Manufacturing Shipping Finance Information Technologies Professional, scientific & technical services
Group 2: Foreign investment industries Industries that require production to take place in the market country (or in the country where natural resources lie) and hence require foreign investment to serve foreign markets	The worldwide system can harm the penetration of low-tax foreign markets by US multinationals, reducing the number of spillover jobs in America; that said, US companies in these industries also benefit from the lower domestic rate that the worldwide system enables to meet any given revenue goal	Mining, oil and gas Construction (infrastructure) Hotels & restaurants Retail & wholesale trade
Group 3: Domestic industries Industries that are dominated by domestic companies both in the United States and abroad; in other words, industries in which the penetration of multinationals is weak for a variety of reasons (e.g., natural, regulatory, or cultural barriers)	The worldwide system is better to protect American jobs as it enables to lower the domestic rate to meet any given revenue goal; the GILTI rate and foreign rates are not very relevant	Agriculture* Utilities Ground transportation Airlines Construction (residential & commercial) Telecommunications & media Real estate Administrative services Health care Education Social services Recreational services Public administration Military

Source: Oxfam.

Notes:

- The industries are defined at a high level and circumstances of each business vary. E.g., transport costs of some manufactured goods may be such that they must be produced close to the market country.
- The separation of Group 3 from Groups 1 or 2 is loosely informed by IRS 2018 country-by-country data, Table 2, which shows that there are more US multinationals, with relatively more foreign revenue, in most of the Group 1 and 2 industries relative to Group 3. This distinction is nevertheless somewhat subjective, as the IRS data aggregates some industries across the three groups, presumably because they have too few multinationals to be disaggregated. The point of the table is indeed to underscore the reality that, while all industries are affected by the domestic rate, a large portion of the US economy is dominated by companies that don't have significant overseas operations and are therefore not much affected by both the GILTI rate and foreign rates.

* Agricultural production only (e.g., plantations and ranches). The big agribusiness corporations like Cargill do not do a lot of agricultural production. Rather, they manufacture agricultural inputs and transport and trade agricultural outputs.