No Tax Breaks for Outsourcing Act

Leveling the playing field for companies that invest in America

Senator Sheldon Whitehouse and Rep. Lloyd Doggett

The Trump tax law created new incentives to export jobs and profits offshore by establishing a tax rate for multinational investments made overseas that is half that for domestic investments. In addition, the law exempts from tax entirely a portion of the returns on tangible investments made overseas, such as plants and equipment.

Since its passage, one study found that the companies that benefited most from the tax break on offshore profits have indeed increased foreign, rather than domestic investment. According to the Treasury Department, U.S. multinationals reported 61 percent of their foreign income in just seven tax havens, including 10 percent in Bermuda alone – exceeding the island nation's GDP many times over. In the words of former Treasury official Kimberly Clausing, the Republican law amounts to an "America-last" tax policy, providing incentives to shift profits on paper to tax havens and make job-creating investments in our economic competitors.

The No Tax Breaks for Outsourcing Act would level the playing field for domestic companies by requiring multinationals to pay the same tax rate on profits earned abroad as they do in the United States. President Biden's Made In America Tax Plan draws several key elements from this legislation, including applying GILTI on a country-by-country basis, eliminating the tax exemption for tangible investments made overseas, cracking down on inversions, and eliminating the tax break for so-called "Foreign Derived Intangible Income."

The legislation would boost U.S. economic competitiveness by encouraging domestic investment, leveling the playing field for domestic companies, and bringing the U.S. into compliance with the global minimum tax agreement. The Joint Committee on Taxation (JCT) found that large U.S. multinationals paid an average tax rate of just 7.8 percent the year after the Trump law passed, lower than their foreign competitors (see Treasury and JCT). They would still pay less than their competitors with a higher rate on foreign profits. Moreover, with the European Union, United Kingdom, and Korea already moving to implement the global tax agreement (agreed to by over 130 countries), U.S. and foreign multinationals alike will be subject to the new minimum tax whether the U.S. complies or not. Failure to join, however, will mean the revenue fills foreign coffers instead of the U.S. Treasury.

The No Tax Breaks for Outsourcing Act would:

- **Equalize the tax rate on profits earned abroad to the tax rate on profits earned here at home.** This legislation would end the preferential tax rate for offshore profits by eliminating the deductions for "global intangible low-tax income (GILTI)" and "foreign-derived intangible income" and applying GILTI on a per-country basis.
- **Repeal the 10 percent tax exemption on profits earned from certain investments made overseas.** In addition to the half-off tax rate on profits earned abroad, the new law exempts from tax entirely a 10 percent return on tangible investments made overseas, such as plants and equipment. This legislation would eliminate the zero-tax rate on certain investments made overseas.

- **Treat "foreign" corporations that are managed and controlled in the U.S. as domestic corporations.** Ugland House in the Cayman Islands is the five-story legal home of over 18,000 companies, many of them really American companies in disguise. This section would treat corporations worth $50 million or more and managed and controlled within the U.S. as the U.S. entities they in fact are, and subject them to the same tax as other U.S. taxpayers.
- **Crack down on inversions by tightening the definition of expatriated entity.** This provision would discourage corporations from renouncing their U.S. citizenship. It would deem certain mergers between a U.S. company and a smaller foreign firm to be a U.S. taxpayer, no matter where in the world the new company claims to be headquartered. Specifically, the combined company would continue to be treated as a domestic corporation if the historic shareholders of the U.S. company own more than 50 percent of the new entity. If the new entity is managed and controlled in the U.S. and continues to conduct significant business here, it would continue to be treated as a domestic company regardless of the percentage ownership.
- **Combat earnings stripping by restricting the deduction for interest expense for multinational enterprises with excess domestic indebtedness.** Some multinational groups reduce or eliminate their U.S. tax bills by concentrating their worldwide debt, and the resulting interest deductions, in its U.S. subsidiaries. This section would disallow interest deduction for U.S. subsidiaries of a multination corporation where a disproportionate share of the worldwide group's debt is located in the U.S. entity, a tactic commonly known as "earnings stripping." The limit for each U.S. subsidiary would equal the sum of the subsidiary's interest income plus its proportionate share of the corporate group's net interest expense. The text of this provision was included in the House Republican version of TCJA. A similar provision was included in the Senate Republican version, but neither provision made it into the conference agreement.
- **Eliminate tax break for foreign oil and gas extraction income.** Oil and gas extraction income earned abroad gets an even further break on the already half-off rate other industries pay on their offshore profits. This provision would eliminate this special tax break for big oil companies.

90 Group Endorsements (117th)

<u>Labor:</u> American Federation of Labor & Congress of Industrial Organizations (AFL-CIO); American Federation of Government Employees (AFGE); American Federation of State, County and Municipal Employees (AFSCME); American Federation of Teachers; Communication Workers of America (CWA); International Association of Machinists & Aerospace Workers (IAMAW); International Brotherhood of Teamsters; International Federation of Professional and Technical Engineers (IFPTE); International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW); IUE-CWA; National Education Association (NEA); Service Employees International Union (SEIU); United Steelworkers (USW); UNITE HERE; Union Veterans Council, AFL-CIO; Working America, AFL-CIO.

<u>Public interest:</u> AfricaFocus Bulletin; Alliance for Retired Americans; American Family Voices; Americans for Democratic Action (ADA); Americans for Tax Fairness; American Sustainable Business Council; Association of Concerned Africa Scholars – USA; Campaign for America's Future; Center for International Policy; Center for Popular Democracy; Coalition on Human Needs; Color of Change; Community Change Action; Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces; Corporate Accountability Lab; Crude Accountability; DailyKos; Democrats.com; Economic Policy Institute; Fair Share; Faith Action Network; Financial Accountability and Corporate Transparency (FACT) Coalition; Franciscan Action Network; Friends of the Earth U.S.; Fund for Constitutional Government; Global Alliance for Tax Justice ; Global Financial Integrity; Greenpeace US; Grey Nuns of the Sacred Heart; Health Care for America Now; Indivisible; Institute for Policy Studies – Inequality Program; Institute on Taxation and Economic Policy (ITEP); Interfaith Center on Corporate Responsibility (ICCR); International Rights Advocates; Jobs With Justice; Jubilee USA; Liberty Shared; Main Street Alliance; Maryknoll Fathers and Brothers; Missionary Oblates; MomsRising; National Advocacy Center of the Sisters of the Good Shepherd; National Employment Law Project; National Organization for Women; NETWORK Lobby for Catholic Social Justice; Our Maryland; Our Revolution; Oxfam America; Patriotic Millionaires; Peace Education Center; Progressive Change Institute; Project Blueprint; Public Citizen; Publish What You Pay – United States; Responsible Wealth; RESULTS; Rights CoLab; RootsAction.org; Sisters of St. Francis of Philadelphia; Small Business Majority; South Carolina Small Business Chamber of Commerce; Strong Economy For All Coalition; Take on Wall Street; Tax Justice Network; Tax Justice Network USA; Tax March; United for a Fair Economy; United Church of Christ, Justice and Witness Ministries; United Methodist Church – General Board of Church and Society; US-Africa Bridge Building Project; Voices for Progress; Washington Fair Trade Coalition; Working Partnerships USA.