

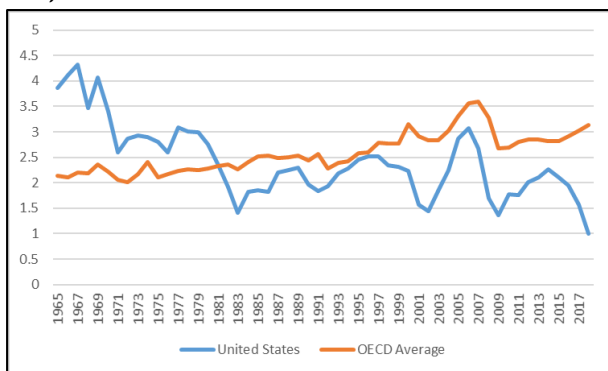
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## Trends and Proposals for Corporate Tax Revenue

Since the mid-1960s, U.S. corporate tax revenues have declined, relative to the size of the economy. Corporate tax revenue as a percentage of gross domestic product (GDP), which was 3.9% in 1965, has fallen to approximately 1.0% in 2020. The decline in corporate tax revenue since 1965 is due to several factors. Average tax rates have declined, primarily due to reductions in the statutory rate and changes in depreciation. The corporate tax base has also been reduced through declining profitability (return on assets), increased use of the pass-through organizational form for businesses, and international profit shifting.

While U.S. corporate tax revenue has decreased, corporate tax revenue in other Organisation for Economic Co-operation and Development (OECD) member countries has, on average, increased. Since 1965, average corporate tax revenue collected by OECD countries has increased from 2.1% of GDP to 3.1% of GDP in 2018 (see **Figure 1**). OECD data indicate that U.S. corporate tax revenue (including corporate tax revenue collected by state and local governments) fell from 3.9% to 1.0% during the same time.

**Figure 1. Corporate Tax Revenue, as a Percentage of GDP, 1965-2018**



**Source:** OECD Tax on Corporate Profits, <https://data.oecd.org/tax/tax-on-corporate-profits.htm>, downloaded March 31, 2021.

**Note:** Tax on corporate profits includes taxes levied by all levels of government.

**Figure 1** also shows that the United States collected 1.8 times as much corporate tax revenue compared to the OECD average in 1965. Since 1981, however, U.S. corporate tax revenue as a percentage of GDP has been less than the OECD average (which includes the United States). In 2018, OECD average corporate tax revenue as a percentage of GDP was 3.1 times U.S. corporate tax revenue as a percentage of GDP.

### Corporate Tax Proposals

President Biden’s “Made in America” tax plan framework seeks to increase the amount of revenue raised by the

corporate tax system. Several legislative proposals in the 117<sup>th</sup> Congress would affect corporate taxes. A number of proposals would likely increase corporate tax revenues, in most cases by altering the international tax structure.

#### Raising the Corporate Tax Rate

The corporate tax rate is currently 21%, levied as a flat rate, reduced from a top marginal rate of 35% before 2018 by the 2017 tax law commonly known as the “Tax Cuts and Jobs Act” (TCJA; P.L. 115-97). President Biden has proposed that the corporate tax rate be increased to 28%. Senator Sanders has proposed (S. 991) a graduated corporate rate with most corporate income taxed at 35%. The Congressional Budget Office (CBO) estimates that raising the corporate tax rate by one percentage point would raise \$99 billion over FY2021-FY2030, implying an increase of around \$1.4 trillion for S. 991 and \$700 billion for the Biden Administration proposal. President Biden has also proposed an alternative minimum tax based on financial or “book” income. Estimates provided by the Administration suggest these changes could raise more than \$2 trillion over 15 years.

#### Increasing the Minimum Tax on Foreign Source Income (GILTI)

Several bills, including S. 20 (Klobuchar), S. 714 (Whitehouse), H.R. 1785 (Doggett), and S. 991 (Sanders) would increase the minimum tax on foreign source income, known as the tax on Global Intangible Low Taxed Income, or GILTI, enacted in 2017. (See CRS Report R45186, *Issues in International Corporate Taxation: The 2017 Revision (P.L. 115-97)*, by Jane G. Gravelle and Donald J. Marples for a discussion of international tax rules.) Under current law, GILTI targets intangible income that is easily shifted by allowing a deemed deduction equal to 10% of tangible assets. Any remaining income is allowed a deduction of 50% (37.5% after 2025) and then taxed at 21%.

The U.S. international tax system allows for credits for foreign taxes paid. Credits are limited to U.S. taxes due on foreign-source income, but imposed on an overall basis across countries. This allows for “cross-crediting,” or the use of credited taxes paid in high-tax countries to offset U.S. income tax due in low-tax countries. For GILTI, the credit is limited to up to 80% of foreign taxes are paid.

A proposal by the Biden Administration and in four bills in the 117<sup>th</sup> Congress—S. 20, S. 714, H.R. 1785, and S. 991—would make GILTI fully taxable by eliminating the deduction for tangible investment and eliminating the 50% deduction. All but S. 991 would impose a 21% rate (the current-law rate); S. 991 would impose a rate of 35%.

These proposals to change the tax treatment of GILTI appear to be motivated, in part, by concerns that the exemption for tangible income might encourage the movement of investment abroad. Some proposals would increase the credit amount for GILTI to 100% and impose a per-country limit for all foreign tax credits (S. 714, H.R. 1785, and S. 991, but not H.R. 1785).

The Joint Committee on Taxation (JCT) has estimated that the changes to GILTI in S. 991 would increase revenue by \$692 billion from FY2021 to FY2031 with a 21% tax rate. The JCT's estimate includes a repeal of the check-the-box and look-through rules that limit taxation of certain easily shifted income, called Subpart F income. S. 725 and H.R. 1786 include provisions that would address these rules.

### Repeal of Deduction for Foreign Derived Intangible Income (FDII)

When GILTI was enacted, a provision was included allowing a deduction aimed at equalizing the treatment of intangibles located abroad and in the United States, referred to as foreign derived intangible income deduction, or FDII. FDII was based on the share of exports and a deduction for 10% of tangible income. S. 714, H.R. 1785, S. 991, and the Biden Administration proposal would eliminate FDII. As with GILTI, one motivation is due to concerns that the deduction for tangible assets might discourage investment in the United States because an increase in domestic investment reduces the FDII deduction. The JCT estimates that the repeal of FDII would increase revenue by \$224 billion from FY2021 to FY2031.

### Limit Interest Expense Deduction for Multinationals

S. 714, H.R. 1785, and S. 991 propose to allocate interest deductions among countries based on their share of income. This provision is aimed at preventing firms from allocating interest deductions to the United States and out of low-taxed countries. The JCT estimates that this provision would increase revenue by \$40 billion from FY2021 to FY2031.

### Modifying the Base Erosion and Anti-Abuse Tax (BEAT)

BEAT was an alternative tax enacted in 2017 under the TCJA. It requires corporations to add certain payments between related foreign firms and then taxes them at a 10% rate; it is paid if higher than the regular tax. BEAT has fewer credits than the regular tax. S. 991 would accelerate the tax rate increase (the 10% rate is scheduled to increase to 12.5% after 2025) and would eliminate the credits, which are also scheduled to expire. It would also reduce the BEAT exemption from \$500 million to \$25 million and eliminate an exemption based on the share of base erosion payments in total payments. It would exclude certain payments that are included as U.S. income by the foreign party. The President's proposal would replace BEAT with a tax at higher rates that is focused on payments to lower-tax jurisdictions.

According to the JCT, this provision would increase revenue by \$29 billion. Based on the pattern of estimates, about \$11 billion of that amount would be from the

acceleration provisions. There are also BEAT provisions in S. 725 and H.R. 1786, but they do not accelerate the rate change and elimination of credits or remove certain payments and they reduce the exemption to \$100 million. These bills include provisions to add certain payments that firms elect to capitalize to BEAT.

### Anti-Inversion and Treaty-Shopping Rules

Under current law, firms that attempt to invert (move their headquarters abroad) by merging with foreign firms are treated as U.S. firms if the U.S. shareholders own more than 80% of the shares. There are also penalties if shareholders own more than 60% of the shares. The President's proposal, S. 991, S. 714, and H.R. 1785 would treat these new firms as U.S. firms if the U.S. shareholders have more than 50% ownership or if they are managed in the United States. S. 991 would also tighten the rules affecting treaty shopping (going through a country that has a treaty with the United States). See CRS Report R40468, *Tax Treaty Legislation in the 111th Congress: Explanation and Economic Analysis*, by Donald J. Marples, for an explanation of the treaty-shopping issue. The JCT estimates that the provisions for S. 991 would increase revenue by \$23.5 billion from FY2021 to FY2031.

### Dual Capacity Shareholder

S. 991, S. 725, and H.R. 1786 would restrict foreign tax credits for taxes paid where there is an income tax that is paid in part to receive a benefit (i.e., the firm is paying a tax in a dual capacity) to the amount that would be paid if the taxpayer were not a dual-capacity taxpayer. This provision typically relates to taxes being substituted for royalties in oil-producing countries. The JCT estimates that this change would increase revenue by \$13 billion from FY2021 to FY2031.

### Other International Provisions

S. 725 and H.R. 1785 would address other areas of international corporate taxation. The proposals would treat swap payments to foreign corporations as sourced to the payor rather than the payee, which would subject swap payments sent abroad to U.S. tax. (Swaps are contracts which allow one to take a financial position based on expected future prices, such as currency prices.) The proposals would require firms who file SEC 10-K reports to disclose actual U.S. federal, state and local, and foreign taxes paid as well as country-by-country information on revenues, taxes, assets, employees, earnings, and profits. The proposals would charge interest on installment payments for the transition tax on accumulated deferred foreign earnings (this provision is also included in S. 991). The proposals would include foreign oil-related income in Subpart F. The proposals would tax the gain on the transfer of an intangible asset to a foreign partnership. Generally, exchanges of assets in return for a share of the partnership would not be taxed. Other sections of S. 725 and H.R. 1785 are associated with international tax administration and enforcement.

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