

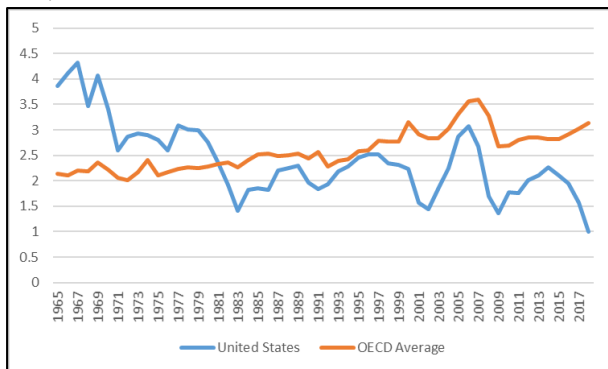
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Trends and Proposals for Corporate Tax Revenue

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.

Whereas 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 budget proposes an increase in the amount of revenue raised by the corporate tax system by

about \$2 trillion over the next 10 years. Several legislative proposals would increase corporate taxes, 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 an increase to 28% with a revenue gain of \$858 billion for FY2022-FY2031. Senator Sanders has proposed (S. 991) a graduated corporate rate with most corporate income taxed at 35%. President Biden has also proposed an alternative minimum tax based on financial or “book” income for corporations with more than \$2 billion in earnings.

Increasing the Minimum Tax on Foreign Source Income (GILTI)

Several bills in the 117th Congress, 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 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%.

Credits are allowed for foreign taxes paid; the credits are limited to U.S. taxes due on foreign-source income, but are imposed on an overall basis across countries. This allows for 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 paid.

The Biden Administration budget proposals and four bills in the 117th 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%. The Biden Administration plan would allow a deduction to set the GILTI tax rate at 21% rather than 28%. The credit would be limited by country and most proposals would increase the GILTI credit to 100%.

These proposals appear to be motivated, in part, by concerns that the exemption for tangible income might encourage the movement of investment abroad. The Biden proposal would tax foreign oil income at the 21% rate,

whereas S. 714, H.R. 1785, and S. 991 would tax all foreign oil income at the full rate.

A draft proposal by Senators Wyden, Brown, and Warner would modify GILTI by eliminating the 10% deemed deduction for tangible assets, exempt income in high-tax countries, and impose a per country limit on foreign tax credits for the remaining countries. The GILTI deduction rate and allowable foreign tax credits are not specified.

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)

In 2017, the foreign derived intangible income deduction (FDII) was aimed at equalizing the treatment of intangibles located abroad and in the United States. 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. The Biden proposal would use the revenue to provide additional incentives for research. 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 Wyden, Brown, and Warner draft would base the deduction on a percentage of research and human training costs in the United States. The JCT estimates that repealing FDII would increase revenue by \$224 billion from FY2021 to FY2031.

Limit Interest Expense Deduction for Multinationals

S. 714, H.R. 1785, S. 991, and the Administration 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, enacted in 2017, requires corporations to add certain payments between related foreign firms and then taxes them at a 10% rate 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. 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 more limited provisions in S. 725 and H.R. 1786 that reduce the exemption to \$100 million. These bills add certain payments that firms elect to capitalize to BEAT.

The President's proposal would replace BEAT with a disallowance of deductions for payments to foreign entities in lower-tax jurisdictions. This change is estimated to raise revenues by \$309 billion over 10 years. The Wyden, Brown, and Warner draft would add a higher tier of tax rates to the base erosion amounts and allow full domestic credits.

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, as well as two more narrowly focused bills, S. 1501 (Durbin), and H.R. 2976 (Doggott) 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 in 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 an income tax 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 this change would increase revenue by \$13 billion from FY2021 to FY2031.

Other International Provisions

S. 725 and H.R. 1786 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. They 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 (a provision also included in S. 991). The proposals would include foreign oil-related income in Subpart F. They would also 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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