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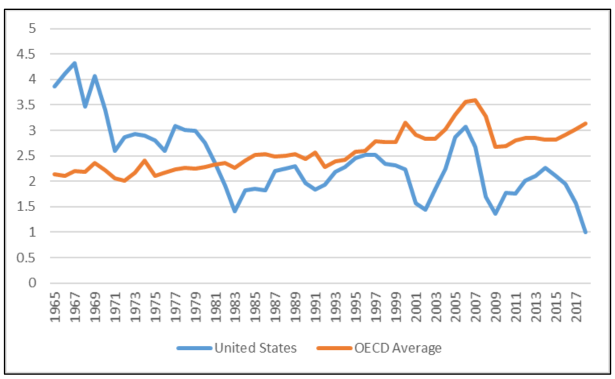
Trends and Proposals for Corporate Tax Revenue

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 Organization 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**).

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. The Ways and Means Committee recommendations in the Build Back Better Act (BBBA; H.R. 5376) would raise around $800 billion in corporate taxes in FY2022-FY2031.

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. The BBBA would impose a minimum tax of 15% on firms with $1 billion or more in earnings. Senator Warren's proposal (S. 2680) would impose a minimum tax on corporations with over $100 million 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), S. 991 (Sanders), and the BBBA 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%, leading to a tax rate of 10.5% (13.125% after 2025). Foreign oil extraction income is excluded and not subject to any U.S. tax.

Current law allows credits 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 treatment 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 80% of foreign taxes paid.

The Biden Administration's budget and four bills in the 117th Congress—S. 20, S. 714, H.R. 1785, and S. 991—would eliminate the deemed deduction for tangible assets and tax GILTI at 21% (35% in S. 991). The BBBA would reduce the deemed deduction to 5% and tax GILTI at 15.051%. In all of the proposals, the foreign tax credit would be limited by country, and most proposals would increase the GILTI credit to 100% (95% in the BBBA). Foreign oil extraction income is included in GILTI in both BBBA and the Administration proposal.

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.

These proposals appear to be motivated, in part, by concerns that the exemption for tangible income might encourage the movement of investment abroad.

Repeal of Deduction for Foreign-Derived Intangible Income

In 2017, the TCJA created the foreign-derived intangible income (FDII) deduction, aimed at equalizing the treatment of intangibles located abroad and in the United States. FDII is based on a firm's share of exports and a deemed deduction for 10% of tangible income, with the remaining income allowed a deduction of 37.5% (21.875% after 2025), leading to a tax rate of 13.125% (16.4% after 2025). S. 714, H.R. 1785, S. 991, and the Biden Administration proposal would eliminate FDII. The BBBA would tax FDII at 20.7%. The Biden proposal would use the revenue to provide additional incentives for research. The Wyden, Brown, and Warner draft would base the deduction on a percentage of research and human training costs in the United States. As with GILTI, one motivation for these proposals is due to concerns that the deduction for tangible assets might discourage investment in the United States.

Limit Interest Expense Deduction for Multinationals

S. 714, H.R. 1785, S. 991, the BBBA, 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.

Modifying the Base Erosion and Anti-Abuse Tax

The base erosion and anti-abuse tax (BEAT), enacted in 2017, requires corporations to add certain payments between related foreign firms and then taxes them at a 10% rate (12.5% after 2025) if higher than the regular tax. BEAT does not allow tax credits except for some temporary domestic credits (no foreign tax credits). S. 991 would accelerate the tax rate increase and eliminate the temporary domestic credits. The BBBA would increase the rate (eventually to 18%), allow all credits, and add certain payments for goods sold. The President's proposal would replace BEAT with a disallowance of deductions for payments to foreign entities in lower-tax jurisdictions. 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 invert (move their headquarters abroad) by merging with foreign firms are treated as U.S. firms for tax purposes 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 (Doggett), 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.

Dual Capacity Shareholder

S. 991, S. 725, H.R. 1786, and the BBBA 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.

Other International Provisions

S. 725, H.R. 1786, S. 991, and the BBBA would address other areas of international corporate taxation. Other sections of S. 725 and H.R. 1786 are associated with international tax administration and enforcement. The BBBA also contains other international provisions, including limiting the deduction for foreign dividends for U.S. shareholders with a 10% ownership to dividends from controlled foreign corporations (CFCs) and making changes to limit certain "downward attribution" rules that create CFC status for some foreign-related firms and subject them to GILTI. The BBBA and the Wyden, Brown, and Warner draft would restrict losses in one country from offsetting income in another and tighten the treatment of Subpart F income, a regime that applies full taxation to certain easily shifted income.

Other Corporate Proposals

The BBBA also contains some other corporate proposals not related to international taxes, including imposing a 1% excise tax on share repurchases, imposing taxes in certain types of reorganizations, and expanding the definition of "trade or business" for determining common control of firms to include research and investment.

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