A TAMPER PROOF TERRITORIAL PLAN FOR CORPORATE TAX REFORM

Our corporate tax system should be reformed to benefit U.S. domestic companies. Instead, it continues to place our businesses at a competitive disadvantage in global markets. Large Multinational Enterprises (MNEs) continue to develop complex, powerful strategies for avoiding domestic taxes, domestic corporations struggle to compete. Congress passed the Tax Cuts and Jobs Act (TCJA) with some reforms of international taxation rules. But the new tax laws are too complicated and limited in scope. Income-shifting to offshore tax havens and other complicated loopholes remain legal strategies under the new tax code. The TCJA fails to significantly reduce tax avoidance by MNEs.

A better tax reform plan is needed. Sales Factor Apportionment (SFA) is a method already used by many states to tax income of multi-state domestic corporations. A federal SFA would virtually 1.) eliminate unfair tax disadvantages that harm domestic companies and prevent growth of new businesses; 2.) achieve an actual territorially-based tax; and 3.) encourage investment in American products, employment and exports. It would also ensure that all businesses pay their fair share of taxes.

HOW IT WORKS

- An American corporation sells $10 billion worth of its products to customers around the world.
- $6 billion of those sales (60%) are made to U.S. customers.
- The corporation's worldwide profit is $1 billion: therefore, $600 million (60%) of that profit would be taxed as U.S. domestic profits.
- Where the company claims its earnings is irrelevant. Income taxable in the U.S. would be determined solely according to the percent of worldwide sales made to U.S. customers. U.S. Profits by foreign MNEs would be taxed in the same way.

WHY SFA IS BETTER

Experts agree that TCJA international tax rules are problematic. SFA provides a fundamental improvement in corporate tax law because it would:

- Eliminate current tax incentives to locate jobs and factories offshore, boosting U.S. employment and exports.
- Level the playing field between purely domestic businesses and all multinational enterprises.
- Streamline calculation of corporate profit to be taxed by the U.S. with a simple formula.
- End the offshore tax-avoidance planning and the resulting corporate tax base erosion.
- Make the U.S. corporate tax rate independent of foreign tax rate manipulation and changes.
- Avoid giving the advantage to foreign companies under the current U.S. world-wide tax system.
- Significantly raise tax revenues to the U.S. and the state governments.

CONCLUSION

While companies can now easily move business operations and assets out of the U.S., few would be willing to give up sales to the world's largest market. Sales Factor Apportionment is more straightforward and more effective than the TCJA.

"(Mr. Zucman said in an interview) 'There are still large incentives and big possibilities for firms to shift profits to low-tax places,'... the research points toward a system that bases corporate income taxes on the location of sales."

WHAT THEY ARE SAYING

"The authors of the (Tax Cut and Jobs Act)... said their bill would discourage the shifting of profits earned in the United States. But the principal anti-tax avoidance measures introduced still allow companies to benefit strongly from profit shifting."

Erman, Michael, Bergin, Tom, How U.S. tax reform rewards companies that shift profit to tax havens. Reuters, June 18, 2018

"(Sales Factor Apportionment) is a far simpler and more effective way to counter income stripping because it avoids a destructive race to the bottom and is the most competitive tax system at any reasonable rate."

Parks, Bill. A Better Alternative For Corporate Tax Reform. Tax Notes Vol. 127, No. 11, Dec. 11, 2017.

"... advanced countries are underestimating economic growth and under-collecting corporate tax revenues, because they are missing the profits that have been shifted on paper by multinational corporations."

Tankersley, Jim. Tax Havens Blunt Impact of Corporate Tax Cut, Economists Say. NY Times, June 10, 2018

"Because the GILTI provision (of TCJA) was layered on top of older tax laws, it operates like 'a truck built on a car chassis,' said Michael Graetz, a Columbia Law School professor and former Treasury"

Rubin, Richard. Proposed rules meant to prevent corporate disadvantages while also avoiding the opening up of new tax-reduction strategies, WSJ June 4, 2018