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FACT Sheet

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The Urgent Case for U.S. International Tax Reform

This year presents an historic opportunity both in the U.S. and globally to reform the international tax system and curb multinational corporate tax avoidance which starves governments around the world of the revenues they need to address economic inequality, global pandemics, and the climate crisis. Concerns about "competitiveness" and how the global negotiations under OECD may interact with U.S. international tax reform consistent with the President Biden's Made in America Tax Plan (or similar) are overstated—or, worse—purposefully misleading. **To improve competitiveness for American working families and domestic businesses, and to ensure an OECD agreement is reached, Congress should act now on U.S. international tax reform.**

Why Are Concerns About "Competitiveness" Overstated or Misleading?

Current law encourages offshoring of investments in assets and jobs.

Under current law, U.S. multinational corporations pay a minimum tax on foreign income (the GILTI) of 10.5%—which is half the domestic corporate rate. In addition, an amount equal to 10% of corporate investment in offshore assets is permanently excluded from U.S. taxation. Foreign multinationals don't pay any minimum tax on foreign income. This system encourages offshore investment at the expense of domestic investment.

The Biden plan and an OECD agreement would work together to create a higher minimum tax on foreign profits for both U.S. multinational corporations and foreign multinational corporations. Under the Biden plan, the GILTI would require U.S. multinational corporations pay a minimum tax on foreign income equal to 75% of the domestic rate (up from 50%). The No Tax Breaks for Outsourcing Act, or NTBOA (H.R. 1785, S. 714), supported by the FACT Coalition, would eliminate any gap between taxes owed on foreign profits and domestic profits for U.S. multinationals. A global minimum tax would force foreign multinationals to pay a minimum tax on their foreign income. Tighter anti-inversion rules in both the President's plan and the NTBOA would also prevent companies from avoiding fairer U.S. taxes by basically just changing their paper addresses. In concert, these reforms will lower incentives to offshore operations and jobs.

After Biden's proposed tax changes (or similar), U.S. multinationals will remain competitive vis-a-vis their international competitors with respect to tax.

U.S. multinationals pay a significantly lower global effective tax rate than their foreign competitors today: 8% in 2018 vs. 18% for our top ten trading partners.[1] A study by Reuters shows that U.S. multinationals will continue to pay a lower global effective tax rate than their competitors *even after Biden's plan* (or similar).[2] This holds *without* taking into account the higher taxes that competitors would pay as a result of the OECD agreement, the President's SHIELD proposal,[3] or other proposed reforms to the flawed BEAT tax enacted in 2017. Importantly, the President's SHIELD proposal and similar reforms, along with tighter anti-inversion rules in both the President's plan and the NTBOA, will further prevent foreign multinationals from eroding the U.S. tax base, maintaining the comparative competitiveness of U.S. corporations regardless of the outcome of any international agreement.

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[1] Joint Committee on Taxation, "US International Tax Policy: Overview and Analysis," March 2021, https://bit.ly/3yvPOnU.

[2] Tom Bergin, "Even after Biden tax hike, U.S. firms would pay less than foreign rivals," Reuters, June 2021, https://reut.rs/3AhwmMh.

[3] Simply, the SHIELD proposal would limit deductions available to offset U.S. income for multinationals as a result of direct or implied base-eroding transactions via members of a financial reporting group that have lower effective tax rates than a minimum rate (consistent with the GILTI). See Department of the Treasury, "General Explanations of the Administration's Fiscal Year 2022 Revenue Proposals," May 2021, https://bit.ly/3ir7Thi [hereinafter "Green Book"].

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Tax policy should focus on the competitiveness of the United States as a destination for investment.
When multinationals complain about "competitiveness", they are talking about their competitiveness with respect to investment in international markets. That is, multinationals are not concerned about the United States being competitive within the global economy in attracting investment and providing good jobs for American workers.

Instead, ***the goal of U.S. international taxation should be to attract investment here and to create a competitive environment for American working families.*** For that, a higher GILTI is better; whereas, a lower GILTI, a weak BEAT and the FDII all encourage offshoring investments and jobs (as well as profit shifting with respect to highly mobile income).[4] Importantly, the $1 trillion that can be raised from international tax reform will be used for investment in infrastructure and human capital, *which will increase U.S. competitiveness*.[5] For example, Moody's forecasts that the Biden plan (and similar plans) will substantially increase economic growth and jobs creation *in the immediate and long term*.[6]

Why Should U.S. International Tax Reform be Implemented Without Delay?

Domestic corporate tax reform is tied to international corporate tax reform.
To equitably and progressively raise revenues for infrastructure and related spending, taxing big corporations that will directly benefit from this spending (and who have primarily wealthy and/or foreign shareholders) is clearly justified.[7] However, because the GILTI taxes foreign profits at a fixed percentage (half) of the domestic rate for U.S. multinational corporations, if the domestic corporate rate goes up, the gap between the tax rate on domestic income and foreign income will also increase. To avoid increased incentives to offshore, it is thus imperative that reforms to U.S. international corporate taxation occur as part of this process.

International tax changes are politically popular and are seen as a matter of fairness
Failing to fix the U.S. international tax system as part of this process is patently unfair to taxpayers that pay their fair shares. Main Street businesses cannot take advantage of tax planning encouraged by the GILTI, FDII or the weak BEAT tax. Working families are harmed by these effects—including when they result in the off-shoring of jobs. That's why these reforms are overwhelmingly popular for domestic businesses and voters.[8]

OECD negotiations may depend on U.S. international tax reform for success
The OECD negotiations were nearly dead before Biden proposed his plans.[9] Waiting until 2023 for the OECD process (or even after reconciliation) presents serious political risks. Perceived political challenges that might arise if Congress were to become divided on international tax reform (or otherwise) could decrease the incentive for foreign governments to engage in OECD negotiations in good faith. A higher GILTI and strengthened base-erosion provisions position the U.S. to negotiate a higher minimum global rate. Therefore, international tax reforms today can bolster the U.S. position in OECD negotiations and help to ensure a favorable agreement.

Bottom line: The Biden plan (or similar plans) will improve U.S. competitiveness regardless of the timing, strength, or even existence of the OECD agreement. This process is an *historic* opportunity to fix U.S. international corporate tax now and bolster the chances of success for OECD negotiations. Congress should take it.

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[4] Oxfam, "Briefing Memo: International Tax Policy and US Competitiveness," July 2021, https://bit.ly/3Ag0h7x.
[5] See Green Book *supra* note 3.
[6] Mark Zandi and Bernard Yaros, "Macroeconomic Consequences of the Infrastructure and Budget Reconciliation Plans," July 2021, https://bit.ly/3Cmpjnc.
[7] Steven Rosenthal, "Who Owns US Stock? Foreigners and Rich Americans," October 2020, https://tpc.io/3CmAufN; Todd Frankel, "Despite paying little or no income tax, some companies have big plans to profit from infrastructure deal," July 2021, https://wapo.st/3fFtsca.
[8] Small Business Majority, "Survey: Small Businesses Support Tax Reforms to Pay for Robust Infrastructure Investments," June 2021, https://bit.ly/3rZIjmE; Americans for Tax Fairness, "Poll shows strong desire for higher taxes on the wealthy and corporations," June 2021, https://bit.ly/3jt2V2Y.
[9] Associated Press, "OECD Head: Biden's Global Tax Proposal 'A Game Changer," June 2021, https://bit.ly/3fCIi34.