

## **Reforming U.S. International Taxation to Meet the Challenges Ahead**

Testimony of  
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Chairman Whitehouse, Ranking Member Grassley, Members of the Committee: Thank you for inviting me to share my views on U.S. international taxation. The time ahead marks an important moment in U.S. international tax policy. In my testimony today, I will make four key points.

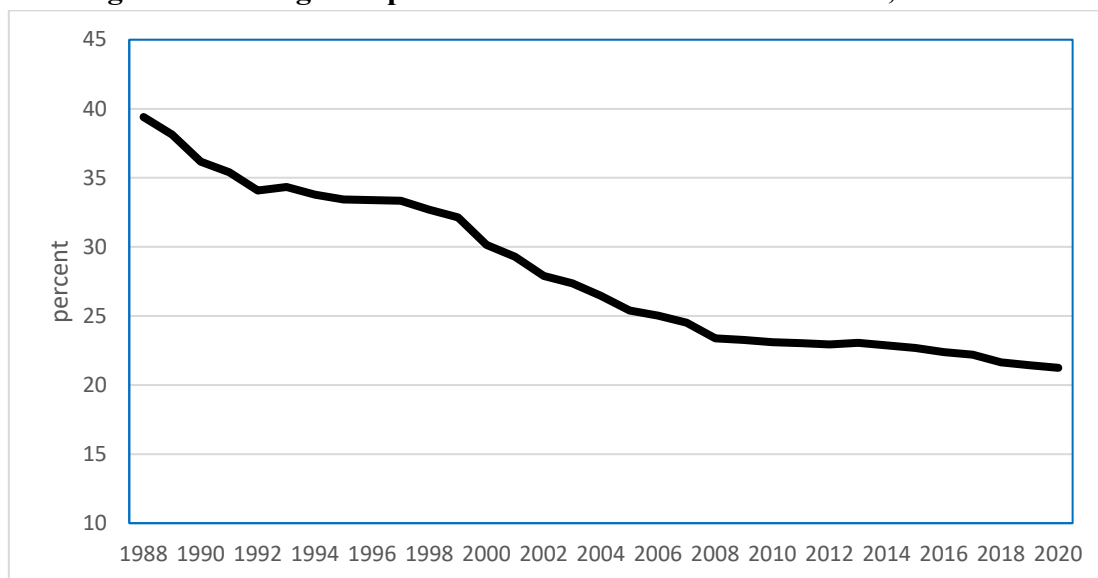
1. International tax is an area of economic policy that benefits from international economic cooperation. Coordinating with other countries will achieve better outcomes than the US government could achieve acting alone. Further, since other countries are now implementing coordinated minimum taxes on corporate income, this gives the US government more policy space to undertake necessary reforms.
2. While the Tax Cuts and Jobs Act (TCJA) laid some important groundwork for further reform, it has a disappointing record in several respects. The international tax rules of the TCJA favor *all* offshore income relative to US income (in both high and low tax countries), encouraging the offshoring of economic activity and profits.
3. In a time of increasing fiscal pressures, the TCJA has also dramatically reduced tax revenues, while making the tax system both less progressive and less efficient. As we head into 2025, corporate tax reform can be a key component of responding to fiscal pressures and building a more fair and efficient tax system.
4. A suite of international tax reforms that would respond to these challenges are readily available, and such reforms are more desirable than ever due to the international tax agreement. Senator Whitehouse's sponsored legislation shows one promising path forward.

## I. *International Tax is a Global Collective Action Problem*

Nations throughout the world, even those with large, important economies like the United States, are often constrained in their policy choices by the forces of international competition. Multinational companies have good reasons to undertake international operations; for example, to access local markets and to benefit from variations in countries' comparative advantage. Yet variation in tax rates and regimes also allows companies to lower their worldwide tax burdens by arbitraging differences in rules and regimes. This arbitrage has pressured governments to seek out tax competitiveness as a policy goal, in order to avoid losing tax base or economic activity.

This dynamic has resulted in a steady downward trajectory for corporate tax rates, alongside an increasing reliance on labor and consumption taxes. For example, [OECD \(2023\)](#) documents the decline in corporate tax rates, and researchers such as [Bilicka, Dubinina, and Jansky \(2023\)](#) have shown how corporate tax avoidance has increased reliance on other taxes; this dynamic was also discussed in a recent Treasury report ([Treasury \(2021\)](#)).<sup>1</sup>

**Figure 1: Average Corporate Tax Rate of OECD Countries, 1988-2020**



Source: OECD

Small countries feel these pressures most acutely, but even large countries are constrained in their policy choices by such concerns. For example, perceived competitiveness problems helped motivate the large statutory corporate tax rate cut of the TCJA, even though there was little evidence that US MNCs faced higher tax burdens on their foreign income than their competitors abroad. For example, studies such as Overesch, Reichert, and Wamser ([2018](#), [2023](#)) document lower tax rates on foreign income for US MNCs in comparison with those in the European Union,

<sup>1</sup> Research on international tax competition is overviewed in my recent paper on "[Taxation in the Open Economy](#)", which includes citations to a much larger body of work on these trends.

both before and after the Tax Cuts and Jobs Act.<sup>2</sup> Regardless, as many observers (including [Dharmapala \(2018\)](#)) have noted, the Tax Cuts and Jobs Act had ambiguous effects on the competitiveness of US multinational companies.

Declining corporate tax rates have resulted in stagnant or falling corporate tax revenues, despite rising corporate profits. For example, [Fuest, Hugger, and Wildgruber \(2022\)](#) document a large increase in corporate profits in previous decades, resolving the puzzle of relatively flat corporate revenues in many OECD countries in the presence of declining statutory tax rates. In the United States, corporate profits have increased sharply as a share of GDP over the prior two decades, at the same time that corporate tax revenues have been stable or falling. Beyond recent corporate tax cuts, [CBO \(2023\)](#) finds that the largest explanation for these trends is the growing importance of foreign income, including the misreporting of foreign income.<sup>3</sup>

Because of the pressures of tax competition, profit shifting, and corporate tax base erosion, a strong international consensus developed in favor of international tax reform, eventually leading to most of the world economy (jurisdictions representing about 95% of world GDP) undertaking an agreement to ensure some minimum level of tax on multinational corporate income (referred to as “Pillar Two”) in 2021.<sup>4</sup> Pillar Two institutes a minimum tax of 15 percent on multinational income, regardless of where it is reported. At present, implementation of Pillar Two is proceeding in a wide array of countries, and a 2024 [OECD analysis](#) estimates that about 90 percent of multinational companies are already covered by the agreement.<sup>5</sup>

Through coordinated reform of international tax rules, countries hoped to both raise more revenue and create a fairer, more efficient tax system. Taxing multinational corporate income at a minimum rate would broaden the tax base, enabling revenue gains. For example, the global minimum tax is [estimated by the OECD](#), using conservative methods, to raise between \$155 and

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<sup>2</sup> See, e.g., Figure 2 in each study.

<sup>3</sup> [CBO \(2023\)](#) finds that declining corporate tax revenues in the United States, even in the wake of higher corporate profits, have resulted from a number of factors, including the increased role of pass-through corporations. However, the largest explanation for the discrepancy between corporate profits and corporate tax base was conceptual differences, the largest of which is the treatment of foreign income. Most data sources do not allow a clean separation of C-corporations from “pass-through” business income (taxed on individual income tax returns), which is also becoming more important in the United States. Still, Fortune 500 corporate profits are also rising. For example, real profits (adjusted for inflation) rose 67 percent over the prior decade’s Fortune 500 lists, 2013-2022, in part due to a spike in profits in the final year of the list.

<sup>4</sup> There was also an agreement to redistribute taxing rights for some of the most profitable companies in the world (Pillar One of the agreement). That Pillar is still in progress and raises issues beyond the scope of this testimony. For more detail on the international tax agreement, see the appendix of [Clausing \(2023\)](#).

<sup>5</sup> The OECD estimates that around 90% of MNE groups that are in the scope of the agreement will be affected by the Pillar Two minimum tax regime; their number is a lower-bound estimate. Since larger multinational companies are often operating across more jurisdictions, an even larger share of the MNE tax base is likely affected by the Pillar Two minimum tax regime.

\$192 billion per year. These revenue gains benefit nearly all countries, beyond a small group of tiny jurisdictions that had previously benefitted as profit shifting destinations.<sup>6</sup>

A key element of the global agreement is that it lowers the tax sensitivity of the corporate tax base, by reducing tax rate differences across countries. This allows the United States (and many other countries) to go higher than the minimum rate without risking adverse competitiveness effects. Simply put, raising the lowest tax rate from zero to 15 percent helps support any government that wants to collect corporate tax revenue, contributing to the efficiency and progressivity of the tax base.

## ***II. The Tax Cuts and Jobs Act, Offshoring, and Profit Shifting***

The Tax Cuts and Jobs Act was, beyond a doubt, a large corporate tax cut. However, while it slashed the headline corporate tax rate, it also undertook international tax reforms that, while flawed, laid the groundwork for important international tax reform efforts in the time ahead.

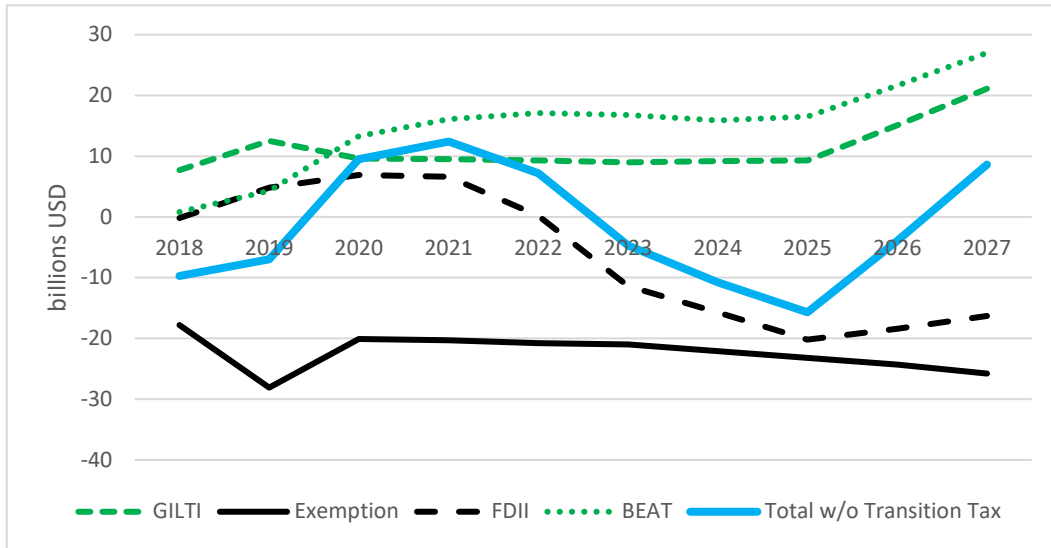
At the time of legislation, it appeared that the international tax reforms within TCJA were (on net) revenue-raising. However, the one-time tax on unrepatriated foreign earnings was a tax cut relative to prior law, and it will not raise revenue on an ongoing basis. (It is also being challenged in the *Moore* case before the Supreme Court). Setting this deemed repatriation tax aside, the remaining international provisions were roughly revenue-neutral, losing (by JCT estimates) about \$14 billion over ten years. (See Figure 2.)

According to JCT estimates, the rough revenue neutrality arises because revenue losses from moving toward a system that exempts many sources of foreign income from taxation and provides a deduction for above-normal profits from exporting (through a new export subsidy, FDII) offsets the revenue gains from the minimum tax on foreign income (GILTI) and a minimum tax on base-eroding payments abroad (the BEAT), as shown in the Figure 2.

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<sup>6</sup> The OECD analysis shows that all country groups experience revenue gains, with the exception of a few “investment hub” (also known as tax haven) jurisdictions that offered exceptionally low tax rates prior to the reform. The analysis estimates that shifted profit will fall by 50 percent, but it omits some sources of revenue gains, including any profit shifting reductions that occur for countries other than “investment hubs”. Further, it assumes that only 5/8 of tax haven/investment hub income is shifted income, a conservative assumption since 3/8 of the profit in many of these tiny jurisdictions still vastly exceeds the profits booked in many far larger countries. The analysis predicts that the agreement will substantially decrease the amount of corporate income taxed at rates below 15 percent, from over \$2 trillion per year over the period 2017-2020 to about \$650 billion.

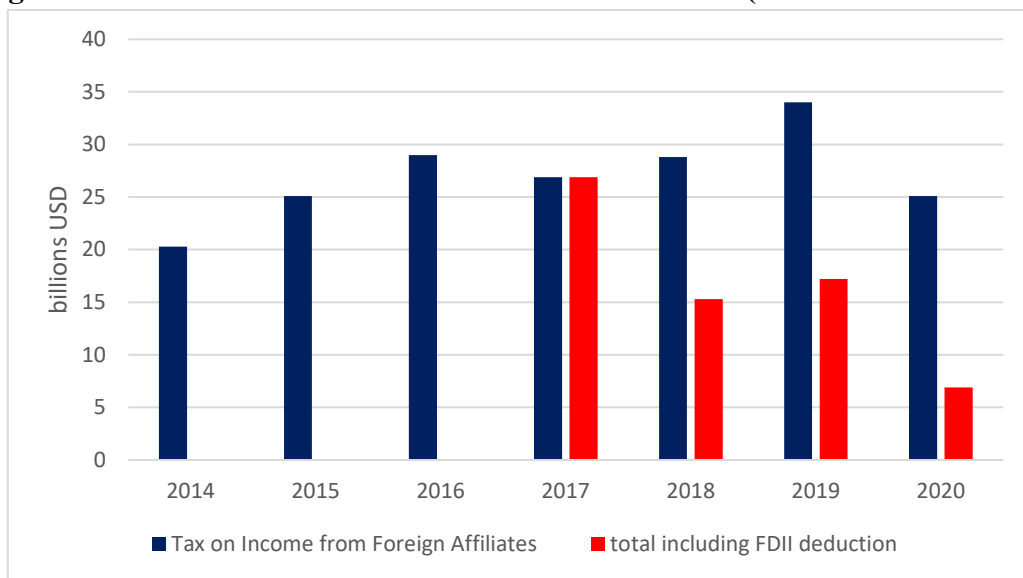
**Figure 2: JCT Revenue Estimates for Key TCJA International Provisions**



Source: [JCT \(2017\)](#).

However, revenue from TCJA international provisions has been disappointing in the early years after the legislation, as summarized in Figure 3, which uses data from a recent Penn-Wharton Budget model analysis. While US tax from the foreign income of US multinational firms appears to be slightly rising after TCJA (blue bars), accounting for the export subsidy (FDII) makes the net revenue effect far less favorable (red bars), and the FDII provision has been more expensive than originally estimated.<sup>7</sup>

**Figure 3: Revenue from TCJA International Provisions (without transition tax)**



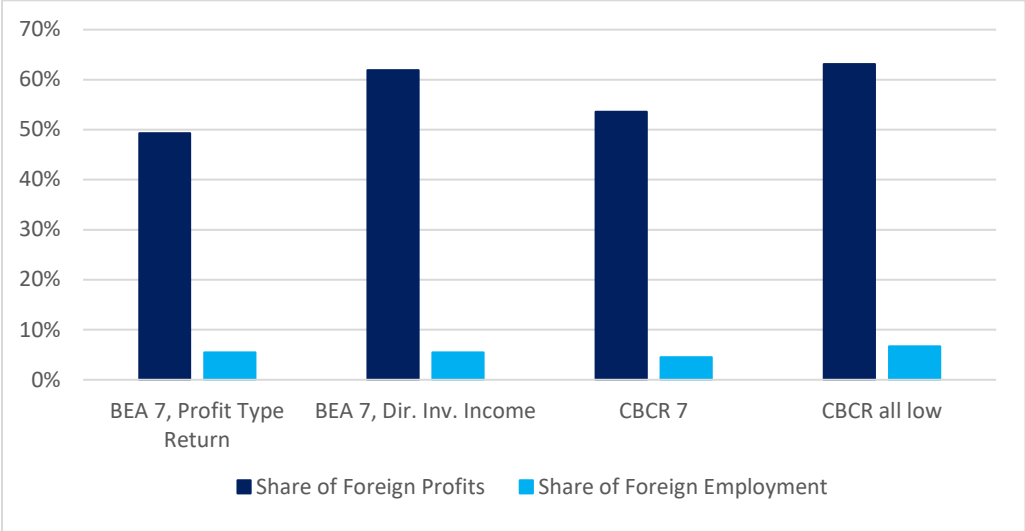
Source: [Penn-Wharton Budget Model \(2023\)](#).

<sup>7</sup> It may take time, however, to completely discern the effects of TCJA’s international provisions, since some of them (including the BEAT) have important interaction effects with the corporate tax base.

Beyond revenue, the TCJA provisions are falling short of their goal of reducing profit shifting and offshoring, in part because of design flaws in the provisions, the most important of which concern the GILTI. First, GILTI is a minimum tax that is calculated based on the average tax burden of *all* foreign sources of income, and this pool of foreign income receives a fifty percent deduction relative to domestic income. This gives multinational companies a strong incentive to earn income offshore in *both* high and low-tax countries, since the income streams can be combined, bearing only half the tax burden of income earned in the United States. For this reason, I’ve often described the GILTI as an “America last” international tax policy.

While some data series show a small decrease in the foreign income of US multinational companies in the wake of TCJA, the effect of TCJA on the share of profit earned in the lowest tax countries appears to be either small and nonexistent, as documented in [Garcia-Bernando, Jansky, and Zucman \(2023\)](#). Further, there is ample evidence that US multinationals continue to book disproportionate amounts of profit in the lowest tax jurisdictions. As Figure 4 shows, across data sources, about half (or as much as 63 percent) of US MNC income is booked in the lightest tax jurisdictions, yet these small jurisdictions account for only about five percent of US MNC foreign employment.

**Figure 4:**  
**Share of US Multinational Income and Employment in Tax Sanctuary Jurisdictions, 2020**



Source: Bureau of Economic Analysis (BEA) and IRS [Statistics of Income](#). The first three series show data for seven traditional low-tax jurisdictions that have hosted a lot of tax-sanctuary income in the past; these are Bermuda, the UK Caribbean Islands (Caymans), Ireland, Luxembourg, Netherlands, Singapore, and Switzerland; the final series includes other jurisdictions with average tax rates below ten percent. These data series have important definitional differences. For example, the BEA direct investment income series is after-tax, whereas the others are before tax; this will mechanically increase the tax sanctuary share for that series (due to the smaller tax bite in low tax jurisdictions). The country-by-country data are relatively new, and they include valuable information about many low-tax rate jurisdictions that are missing from other data sources. However, despite clarifying instructions, there likely remains some double-counting in those data; although it remains unclear how such double-counting would affect these shares.

A similar pattern is documented for the US pharmaceutical industry in [recent testimony by Brad Setser](#) before the Senate Committee on Finance. US profits are far lower than foreign profits, despite higher U.S. revenues and activities. This is true despite comparatively high US drug prices. As Setser describes:

“Such a pattern is all the more striking because the United States is well known to have the highest pharmaceutical prices in the world. The cost of pharmaceutical production does not vary significantly from jurisdiction to jurisdiction, so the profit margin on high priced U.S. sales would normally be expected to be much higher than the margin on foreign sales. It consequently is particularly noticeable that the bulk of the American pharmaceutical industry appears to barely make any money on their U.S. operations, while reporting large profits in countries that more intensively regulate pharmaceutical pricing.”

In contrast to the GILTI design, the Pillar 2 global minimum tax discussed above applies on a country-by-country basis, providing a much stronger incentive to reduce profit shifting. A recent OECD analysis estimates that the Pillar 2 minimum tax will generate a large decrease in profit shifting, and [my own prior analysis](#) also suggests that the country-by-country feature could make the GILTI a far more effective minimum tax. Under a country-by-country minimum tax, all profit shifting to low-tax countries will bear a minimum tax and therefore be discouraged, whereas under GILTI, minimum tax due can be offset by tax credits from tax paid to higher tax countries, incentivizing both types of foreign income.

Additional features of TCJA encourage the offshoring of real activity. For example, the GILTI exempts the first ten percent return on foreign tangible assets from US taxation, and the FDII only subsidizes export income if the return on US assets exceeds ten percent. Thus, holding other factors constant, if you move the location of your tangible asset investments from the United States abroad, your GILTI bill will fall, while your FDII subsidy will increase! These are perverse incentives. Several studies have indicated that companies are responding to these incentives, and that in the wake of TCJA, foreign tangible investment has been particularly strong. This evidence is described in [Dharmapala \(2023\)](#), [Atwood et al. \(2020\)](#), [Huang, Osswald, and Wilson \(2023\)](#), and [Beyer et al \(2021\)](#).

### ***III. Efficiency and Fairness Benefits from International Tax Reform***

In addition to increasing tax revenue, and reducing offshoring and profit-shifting incentives, international tax reform is essential for building a fairer and more efficient tax system. Our tax system provides much lower tax rates for the foreign income of multinational companies, companies that are often the largest and most profitable companies in the world, than it assigns to domestic income. Further, multinational companies have ample opportunities to shift income offshore that belongs in the U.S. tax base, lowering their tax burden at home. This gives US multinational companies a large tax advantage relative to domestic companies, companies that are

(on average) far smaller and far less likely to benefit from market power.<sup>8</sup>

The corporate tax base is very concentrated, with fewer than one half of one percent of corporations accounting for 87 percent of the tax base. Reforming international tax rules to ensure that large, dominant multinational companies pay adequate tax on their foreign income is essential for revenue, but it is also essential for creating a level competitive playing field, benefiting the many small, domestic companies that compete against large multinational companies.

Protecting the corporate tax base from offshore tax base erosion is also essential for building a fairer tax system. The corporate tax is a progressive tax; both conventional scoring authorities and outside experts (e.g, JCT, CBO, Treasury, and the nonpartisan Tax Policy Center) agree that the corporate tax predominately burdens shareholders and the owners of capital income, whereas alternative tax instruments (such as payroll or income taxes on earned income) much more heavily burden labor.<sup>9</sup> Early evidence from Tax Cuts and Jobs Act confirms this pattern. While the TCJA cut corporate tax burdens dramatically, the vast majority of the gain was felt at the top of the income distribution.<sup>10</sup>

Further, corporate tax base erosion reduces our ability to tax capital income at all, since the vast majority of capital income goes untaxed at the individual level by the U.S. government,<sup>11</sup> and capital income is far more concentrated at the top of the income distribution than labor income.<sup>12</sup>

#### ***IV. Paths Forward for International Tax Reform***

A suite of ready reform proposals could respond to the challenges raised above. An essential element in these proposals is implementing a country-by-country version of the GILTI minimum

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<sup>8</sup> For example, the U.S. Joint Committee on Taxation calculated that U.S. MNCs paid an average tax rate of only 7.8 percent on their worldwide income in 2018. See table 3 on page 58 [here](#). These tax rates are far lower than those paid by domestic companies, and lower than tax rates faced by MNCs abroad. JCT finds that our top ten trading partners levied an average tax rate of 18.1 percent. A recent [Reuters study](#) found that US multinational companies pay *effective* tax rates that are 8 percentage points lower than those of multinational companies in other countries.

<sup>9</sup> For JCT modeling assumptions on the corporate tax incidence, see [here](#). For CBO, see [here](#). For Treasury, see [here](#). For the Tax Policy Center, see [here](#).

<sup>10</sup> For example, [an analysis](#) by Kennedy, Dobridge, Landefeld, and Mortenson (2022) finds that, for the corporate tax cuts in TCJA, 80% of the benefit accrued to the top 10% of the income distribution. The methodology of their analysis considers how a typical firm responded to TCJA tax cuts, but their methodology is less able to consider how the largest companies responded to TCJA. Since the largest companies are those that are most likely to benefit from market power and earn substantial rents, it is likely that the incidence of the corporate tax would fall even more heavily on shareholders (and thus those at the top of the distribution) for the largest firms.

<sup>11</sup> More than 70 percent of capital income goes entirely untaxed by the US government at the individual level since it is held by untaxable entities or in untaxed accounts; see [here](#). Rethinking such tax preferences may be desirable, but it would be exceedingly politically difficult. Even for taxable US accounts, taxation is often deferred indefinitely (until the capital gain is realized) or eliminated entirely (in the case of step up in basis at death).

<sup>12</sup> The top 1 percent of the US income distribution receives 12 percent of all labor income and 52 percent of positive capital income; see US Treasury analysis [here](#).



tax. A country-by-country minimum tax would act as a much stronger disincentive toward offshoring and profit shifting, has the potential to raise hundreds of billions of dollars, and would better align US international tax reform with global implementation of country-by-country minimum taxes, subjecting US multinational companies to fewer overlapping minimum tax regimes.

Exactly how much revenue such a minimum tax reform would generate would depend on the details of the rate and the accompanying regime. The Biden Administration has consistently proposed GILTI reforms along these lines, and revenue estimates of these reforms suggest that hundreds of billions of dollars are at stake.<sup>13</sup> I suggest a similar international tax reform (outlined in my recent [Hamilton Project paper](#)) that would raise about \$500 billion dollars.<sup>14</sup>

Senator Whitehouse has sponsored important legislation, the “No Tax Breaks for Outsourcing Act”, that would fully tax (at the regular statutory rate) the foreign income of U.S. multinational companies on a country-by-country basis and eliminate both the tax-free return on foreign tangible assets and the subsidy for excess profits from exporting (FDII). This legislation would completely remove the large tax advantage presently benefiting multinational companies, allowing smaller domestic companies to compete on a level playing field.

The aforementioned international tax reform proposals would all substantially reduce offshoring and profit shifting incentives, which are completely eliminated under the “No Tax Breaks for Outsourcing Act”, while raising hundreds of billions of dollars in revenue. In addition, because the world is already in the process of implementing coordinated minimum taxation on the profits of large, multinational companies, these international tax reforms no longer come with associated fears regarding a loss of competitiveness.

For many decades, the US business community has resisted international tax reform on the grounds that it would reduce their competitiveness relative to companies based in low-tax jurisdictions abroad. Now that the world is moving toward a 15 percent minimum tax, the threat of rock-bottom tax rate competitors is no longer a concern. (Even in prior times, such concerns were greatly exaggerated, given the strong competitive position of US multinational companies, as well as the more important policy goal of ensuring the competitiveness of the US *location* as a

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<sup>13</sup> For instance, ten-year revenue estimates for a country-by-country reform of the U.S. GILTI tax (which taxes the foreign income of U.S.-based multinational companies) from four different independent sources range from \$442 billion to \$692 billion; this reform would raise the GILTI rate to 21 percent and eliminate the exemption for the first ten percent return on foreign tangible assets. Treasury scored the 2021 Biden reform [here](#) and a similar 2023 reform [here](#). JCT scored a similar proposal [here](#). Both the Tax Policy Center ([here](#)) and the American Enterprise Institute ([here](#)) scored the (very similar) Biden campaign proposal; the Tax Policy Center score covers only a nine-year window.

<sup>14</sup> This reform includes a country-by-country GILTI minimum tax at higher rate (by lowering the deduction for foreign income), ends the 10 percent tax exemption for returns on foreign tangible assets, and eliminates the FDII export subsidy. This reform also includes other conforming Pillar 2 reforms.

place to do business and book profits.)

Further, the US business community has a lot to gain from a US tax system that is better aligned with what partner nations are implementing abroad. US international tax reform has the potential to lower compliance costs for US businesses by lowering the number of overlapping minimum tax regimes that they face throughout the world. Further, working on international tax matters cooperatively with other nations reduces the risk that tax disputes will spiral into a trade wars, a scenario that became a reality during the Trump Administration.

International tax is not our only global collective action problem. We face important national security threats, public health concerns, and the existential threat of climate change; all of those problems require an approach that coordinates with a wide range of international partners abroad in order to be effective. Senator Whitehouse has been an important leader on these issues, working on nondiscriminatory ways to leverage US climate policy action into policy action abroad through his recently reintroduced legislation, the “Clean Competition Act”.

Finally, these debates occur in the context of a time of deep fiscal stress. With interest rates higher than they were in the past, alongside historically high levels of deficits and debt, it is important to increase U.S. tax revenues in the time ahead.<sup>15</sup> The current fiscal outlook is already distressing, even before one considers the nearly \$4 trillion price tag of extending the full suite of TCJA tax cuts (including business provisions) over the ten year budget window post expiration (2026-2035).<sup>16</sup>

In [recent work](#) on the 2025 fiscal policy moment, I argue that increases in tax revenue should meet four tests: they should promote fiscal responsibility by reducing the deficit, they should serve tax fairness by increasing the progressivity of the tax system, they should improve the efficiency of our tax system, and they should be consistent with US leadership in the world economy, helping us work with international partners to address global collective action problems. US international tax reform clearly meets these four tests; it should be top of mind for Congress in the time ahead.

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<sup>15</sup> The most recent CBO budget projections are available [here](#). As of May 2023, the deficit was projected to be around 6 percent of GDP for the coming decade, with federal debt held by the public rising to 119% of GDP by the end of the coming ten-year period. [CBO analysis](#) indicates that, if the Tax Cuts and Jobs Act provisions are extended past 2025, it is mathematically impossible to balance the budget in ten years without either tax increases or spending cuts in Social Security, Medicare, defense, or veterans’ programs.

<sup>16</sup> This calculation is from [Clausing and Sarin \(2023\)](#), page 3, where we merely extrapolate CBO estimates for the budget window 2026-2035, post TCJA expiration.