THE CORPORATE TAX DODGING PREVENTION ACT OF 2024

The Corporate Tax Dodging Prevention Act would stop corporations from sheltering profits in tax havens like the Cayman Islands and Luxembourg and would stop rewarding companies that ship jobs and factories overseas with tax breaks. According to an official estimate from the Joint Committee on Taxation from 2021, closing down corporate use of offshore tax havens would raise more than $1 trillion in revenue over ten years. This legislation would also roll back the Trump corporate tax rate cut and restore the top rate to 35 percent, a move that would raise at least an additional $1.3 trillion over 10 years.

Specifically, this bill would reform the tax code by:

Repealing the Trump corporate tax rate and restoring the top corporate tax rate to 35 percent (Sec. 2)

From 1993-2017, a period of 25 years, the top statutory federal corporate income tax rate was set at 35 percent. During this time, the United States experienced a high level of growth and investment, especially among its largest corporations. Unfortunately, corporate interests promoted the myth that the tax rate was too high and successfully lobbied President Trump and congressional Republicans to cut the rate by an unprecedented two-fifths, from 35 percent to 21 percent. As a result of this rate cut and other changes, our nation's largest corporations have seen a windfall of hundreds of billions of dollars, even as their profits soared. In fact, the Joint Committee on Taxation (JCT) estimated that the corporate rate cut alone would provide corporations a tax cut of over $1.3 trillion over 10 years.

Under this legislation, the top corporate income tax rate would be restored to 35 percent.

Ending the rule allowing American corporations to pay a lower or zero percent tax rate on offshore earnings compared to domestic income. (Sec. 3)

The current statutory tax rate for U.S. corporations on their domestic income is 21 percent, but companies often avoid paying this low rate by shifting their income into offshore tax havens. Current law allows American corporations to pay - at most - half the 21 percent rate on their offshore income, and in many cases allows them to pay a 0 percent rate if they maneuver just right. In fact, the Trump tax cuts provide an incentive for companies to offshore not just their income, but real jobs and facilities by allowing companies to reduce their taxes based on the amount of assets they move offshore.

The latest data from Professor Kimberly Clausing found that after the Trump tax cuts, companies are still shifting hundreds of billions of dollars from their profits into offshore tax havens to avoid paying US taxes and take advantage of lower rates offshore. This bill would crack down on this tax avoidance by requiring companies to pay the same rate on their offshore income as on their domestic income.

Under this legislation, American corporations would still be allowed to reduce their federal income tax liability by an amount equal to income taxes paid to foreign governments on these profits. This foreign tax credit exists under current law and already prevents double-taxation of profits.

According to the JCT, this provision, along with the application of the foreign tax credit on a per country basis, would raise $692.1 billion over 10 years.

Eliminating the Interest-Free Deferral of Repatriation Tax Payments (Sec. 3)

One of the biggest giveaways in the Trump tax cuts was a provision allowing American companies to repatriate their accumulated offshore income at a tax rate of between 8 percent and 15.5 percent, rather than the 35 percent they would have owed under the previous system. This provided large multinational companies with an estimated tax break of over $400 billion. While this legislation does not fully reverse this giveaway, companies would no longer be able to defer repatriation tax payments on an interest-free basis.

Closing loopholes allowing American corporations to shift income between foreign countries to avoid U.S. taxes. (Sec. 4)

When U.S. corporations earn profits overseas, taxes paid to a foreign country are credited against U.S. tax liabilities in order to avoid double-taxation. Under the tax system created by the Trump tax cuts, corporations are allowed to consolidate their foreign taxes on a worldwide basis, rather than per country, for purposes of the foreign tax credit. To put it simply, companies are incentivized to game the tax system – shifting income between both tax havens and high tax countries – in order to reach an average foreign tax rate that allows them to avoid paying any US taxes at all.

Under the Corporate Tax Dodging Prevention Act, foreign tax credits generated by profits earned in one country could not be used against U.S. income tax on profits earned in another country.

Repealing the "check-the-box" and "CFC Look-Thru" offshore loopholes. (Sec. 5)

The "check-the-box" rules for foreign entities and related CFC look-thru rules allow companies to avoid taxes by choosing how they classify subsidiaries for tax purposes. The check-the-box rule was originally created in 1997 as a regulation and became law on a temporary basis in 2006. It has been renewed repeatedly as part of the special interest tax extenders packages and most recently was extended through 2025. The key tax advantage that the rules bestow is that it allows a tax-free transfer of income between offshore subsidiaries without triggering higher U.S. taxes.

Under the Corporate Tax Dodging Prevention Act, the continual extension of these loopholes would end and they would be repealed on a permanent basis.

Preventing multinational corporations from stripping earnings out of the U.S. by manipulating debt expenses. (Sec. 6)

Multinational corporations sometimes load up their U.S. affiliates with excessive debt as a way to shift profits out of the U.S. The U.S. affiliates make interest payments to foreign subsidiaries that result in deductions that reduce or wipe out their U.S. income for tax purposes. The loans are often made between entities owned by the same parent company, which means they are really an accounting fiction and the only real consequence is a lower U.S. income tax bill.

Under the Corporate Tax Dodging Prevention Act, a U.S. affiliate of a multinational corporation would not be allowed to deduct interest expenses that are disproportionate (defined here as 105 percent) to its share of income of the entire corporation.

Preventing American corporations from avoiding U.S. taxes by inverting. (Sec. 7)

In an inversion, an American corporation acquires or merges with a foreign company (usually much smaller) and then claims that the newly merged company is a foreign one for tax purposes — even though the majority of the ownership is unchanged and little or no personnel or operations have actually moved offshore.

Under the Corporate Tax Dodging Prevention Act, the U.S. would continue to tax such a company as an American corporation so long as it is still majority owned by the owners of the American party to the merger or acquisition.

Preventing American corporations from claiming to be foreign by using a tax haven post office box as their address. (Sec. 8)

Some companies claim to be based in a tax haven like the Cayman Islands - even though their presence there consists of nothing more than a post office box - while their actual staff is still located in the U.S. Today, a single five-floor office building in the Cayman Islands is claimed as the address for nearly 20,000 corporations, demonstrating how easy it is for companies to pretend to be based there. Under the Corporate Tax Dodging Prevention Act, a corporation could not claim to be foreign if its management and control operations are located in the U.S.

Reforming and tightening the Based Erosion and Anti-Abuse Tax (Sec. 9)

The Based Erosion and Anti-Abuse Tax (BEAT) is one of the few provisions of the Trump tax cuts that sought to clamp down on offshore tax avoidance, especially profit shifting by foreign-parented multinational companies. Unfortunately, the rushed drafting and passage of the Trump tax cuts and the efforts to weaken the BEAT by corporate interests prevented the tax from adequately performing its anti-abuse role.

Under the Corporate Tax Dodging Prevention Act, the BEAT rate would increase from 10 percent to 12.5 percent in 2025, rather than in 2026 as under current law. In addition, the legislation would lower the gross revenues threshold to $25 million from $500 million and repeal the requirement that the BEAT apply only to taxpayers with a certain percentage of base erosion tax benefits as compared to total deductions and tax benefits. This would ensure that a wider swath of companies are included in the tax. Finally, the proposal exempts any item that would be a base erosion tax benefit if the item is included in the income of the taxpayer (either as effectively connected income or under subpart F). Given the imposition of a full worldwide tax system under the broader legislation, this makes the inclusion of these tax benefits unnecessary.

Preventing extractive and gambling companies from disguising royalty tax payments to foreign governments as foreign income taxes. (Sec. 10)

U.S. taxpayers are taxed on their income worldwide but are entitled to a dollar-for-dollar tax credit for any income taxes paid to a foreign government. Many U.S. companies, especially those in the oil and gas industries, have been disguising royalty payments to foreign governments as foreign taxes in order to claim foreign tax credits. The Corporate Tax Dodging Prevention Act would close this loophole, which amounts to a U.S. subsidy for foreign oil production for the largest oil companies.

Preventing the abuse of tax treaty benefits (Sec. 11)

One way companies seek to avoid paying U.S. taxes is through a practice known as treaty shopping, which involves the use of shell companies and profit shifting to manipulate which tax agreements certain income is subject to.

The Corporate Tax Dodging Prevention Act would prevent companies from receiving treaty benefits in cases where a foreign multinational uses a related party in a third country to claim benefits that it would not otherwise receive had it not created that related party. Additionally, the legislation would deny treaty benefits from certain income attributable to a permanent establishment in a third country.

Repeal the Tax Break for Foreign Derived Intangible Income (Sec. 12)

One of the largest new corporate tax breaks created by the Trump tax cuts is the 37.5 percent deduction for Foreign Derived Intangible Income (FDII). The idea behind the FDII deduction was to encourage companies to move their intangible assets and operations to the United States. In reality, the tax break functions largely as a windfall for companies and creates a perverse incentive by providing a tax cut for corporations to move more of their operations offshore due to a reduction of the break for onshore tangible assets. The long term sustainability of the tax break is also in question due to the fact that it likely violates international trade rules.

The Corporate Tax Dodging Prevention Act would fully repeal this costly, ineffective and counterproductive tax break for multinational corporations.

According to the JCT, this provision would raise $224.2 billion over 10 years.