BR Business Roundtable

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The Honorable Jason Smith
Chair
Ways and Means Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Smith,

On behalf of the members of Business Roundtable, thank you for the opportunity to comment on the 2017 tax provisions scheduled to expire or increase after 2025.

Business Roundtable is an association of more than 200 chief executive officers (CEOs) of America's leading companies, representing every sector of the U.S. economy. Business Roundtable CEOs lead U.S.-based companies that support one in four American jobs and almost a quarter of U.S. GDP. Business Roundtable members develop and advocate for policies to promote a thriving U.S. economy and expanded opportunity for all Americans.

The 2017 Tax Cuts and Jobs Act (TCJA) leveled the playing field for U.S. companies and made it more attractive to invest and grow at home. In the five years before enactment, there were 27 tax related corporate inversions. Since TCJA there have been none. In the wake of tax reform, the U.S. experienced strong economic growth, including a 20% increase in domestic business investment, a more than $6,000 increase in real median household income and a 15-year high in prime-age labor force participation.

As policymakers consider changes to the tax system, Business Roundtable urges the following:

- **Retain the permanent corporate income tax rate of no more than 21%.** Any increase to the existing U.S. corporate income tax rate would make U.S. corporate income among the highest taxed, if not the highest taxed, in the developed world.
- **Maintain a competitive international tax system.** Keep the international tax rules on foreign income, including the minimum rate, globally competitive.
- **Continue and strengthen broad-based innovation incentives.** A competitive tax system should include immediate expensing for all R&D investments, which is standard practice for our international competitors. Any reforms should retain the tax incentives for owning intellectual property (IP) in the United States, including the deduction for Foreign-Derived Intangible Income (FDII).

The following further describes the impact of each policy priority on the American economy and the importance of maintaining a competitive, pro-growth tax system for U.S. businesses, consumers and workers.

I. Retain the permanent corporate income tax rate of no more than 21%

Moving to a Competitive Rate

Prior to tax reform, there was widespread agreement that the United States had an outdated, anti-competitive tax code, including the highest combined corporate income tax rate among the countries in the Organisation for Economic Co-operation and Development (OECD). In response, Congress lowered the statutory corporate income tax rate from 35% to 21%, resulting in a combined statutory federal and state corporate tax rate of 25.6% (21% federal rate plus average effective state tax rate). This rate is still one of the highest among developed economies and puts the U.S. in the middle of the pack for OECD countries (24th out of 38, ranked low to high) with a higher rate than major competitors, including Belgium, Spain and the United Kingdom.

Rate Reduction Was Fiscally Responsible

The 2017 tax reforms included a mix of both corporate tax reductions and increases, producing a net tax cut of $330 billion. Along with the rate reduction, Congress closed loopholes and adopted new corporate taxes, including:

- A limitation on interest deductibility;
- Modification of the net operating loss deduction;
- Repeal of the deduction for domestic production activities;
- Establishment of the Base Erosion and Anti-Abuse Tax (BEAT) to apply a surtax on certain otherwise deductible payments between a U.S. company and its foreign affiliates;
- The first global corporate minimum tax; and
- A transition tax applied to foreign earnings that had not previously been subject to U.S. tax.

Corporate Tax Receipts Are at Record Highs

Despite the 2017 tax reform lowering the corporate tax rate from 35% to 21%, corporate tax receipts are at a record high. Tax increases and new tax structures, which broadened the base, combined with a stronger environment for domestic investment, produced record high corporate tax receipts that exceeded CBO estimates by tens of billions of dollars. CBO forecasts $420 billion in corporate receipts for FY24, yet again, a record-breaking high year.

From 2000-2017, under a 35% corporate rate, a percentage point of corporate tax raised an average of $7 billion – ranging from a low of $3.8 billion in 2003 to $10.6 billion in 2007. From 2018-2023, under a 21% corporate rate, a percentage point of corporate tax raised an average of $14.8 billion. This is partly because the broader base collected more revenue per point of corporate tax than before tax reform.

Macroeconomic Effects of a Rate Increase

Economists at the OECD, Penn Wharton, Economics Observatory, Tax Foundation and others have shown that the corporate income tax is the most harmful tax for economic growth.[1]

While a higher corporate tax rate would raise revenue, any revenue would come at a high price of lost economic output, investment and wage growth. According to the Tax Foundation, by 2034 under a 28% rate, for every $1 of higher revenue on a conventional basis, GDP would fall by $1.84.[2] Economists from the Joint Committee on Taxation (JCT) and Federal Reserve have concluded that an additional $1 of corporate income tax would reduce GDP two to three times as much as $1 of payroll tax and twice as much as $1 of personal income tax.[3]

Finally, the corporate rate does not just affect large corporations. According to the U.S. Census Bureau, more than 80% of C corporations have fewer than 20 employees, with widespread impact on small- and medium-size enterprises.[4]

Corporate Rate Benefits Workers, Families and Retirees

The 21% corporate tax rate contributed to an increase in household income, higher wages and lower unemployment. In the two years following tax reform, 500,000 new U.S. jobs were created due to increased domestic activity by U.S.-based multinational companies. Salaries and wages increased by 5%, with the lowest ever recorded unemployment rate for economically disadvantaged groups, including those without a high school diploma. Income inequality narrowed, demonstrated by 40% higher growth in incomes for the lowest 10% of earners. Families saw a near doubling of real median household income, rising by more in the two years after enactment of the 2017 reforms than in the prior 10 years combined.

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[1] https://www.oecd-ilibrary.org/economics/taxation-and-economic-growth_241216205486; https://budgetmodel.wharton.upenn.edu/issues/2024/4/22/policy-options-for-reducing-the-federal-debt-spring-2024; https://www.economicsobservatory.com/which-taxes-are-best-and-worst-for-growth; https://taxfoundation.org/blog/inflation-reduction-act-corporate-taxes/
[2] https://taxfoundation.org/blog/trump-harris-corporate-tax-proposals/
[3] Patrick Kennedy, et al., "The Efficiency-Equity Tradeoff of the Corporate Income Tax: Evidence from the Tax Cuts and Jobs Act," March 21, 2024.
[4] https://www.census.gov/data/tables/2018/econ/susb/2018-susb-annual.html

Any increase in the corporate rate would negatively impact workers, consumers and shareholders. Estimates show that 52% of the corporate tax burden is borne by consumers in the form of higher prices, 28% through lower worker wages and 20% through lower shareholder investments.[5] An increase in the corporate rate to 28% would hit families making less than $300,000 with a $500 billion tax increase, in the form of lower wages.[6] Retirees, who generally derive over half of their income from dividends, 401(k) and pension plans, would be the hardest hit.

Tax Increases Since 2017

Congress adopted additional corporate taxes in the 2022 Inflation Reduction Act, including nearly $300 billion in corporate tax increases through the corporate alternative minimum tax ($222 billion) and the excise tax on stock buybacks ($74 billion).

Because of the offsetting tax increases in 2017 and additional tax increases in subsequent years, corporations have received a net corporate tax cut of about $30 billion compared to the pre-TCJA tax code.[7] As a result, even a one percentage point increase in the corporate tax rate would raise the tax burden on U.S corporations beyond pre-tax reform levels and undermine America's global competitiveness.

II. Maintain a competitive international tax system

Prior to 2017, the U.S. international tax system penalized U.S. companies for returning foreign earnings to the United States with a significant layer of additional tax. By contrast, most foreign countries allowed companies to bring their profits home with no additional tax burden and taxed home earnings at lower rates. That system created a powerful incentive for U.S. companies to move valuable income-generating property overseas to take advantage of lower rates and more competitive international tax regimes, boosting other countries' economies at the expense of our own. Tax reform moved the United States to a more modern international system and included significant base erosion provisions further described below.

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[5] Baker et al., "Corporate Taxes and Retail Prices", NBER Working Paper No. 27058, Revised March 2023

[6] U.S. Department of the Treasury, Distribution of Tax Burden under Current Law, October 20, 2023. (According to the Treasury's Office of Tax Analysis, 36.9% of the corporate income tax is borne by families making less than $310,680. In its review of President Biden's FY2025 budget proposal, Treasury projects increasing the corporate rate to 28% would raise $1.35 trillion through 2034, 36.9% of which is $498 billion.)

[7] For illustrative purposes; not inclusive of all tax policy changes since 2017. Calculations from Joint Committee on Taxation, JCX-67-17 (2018-2027 Budget Effects); Joint Committee on Taxation, JCX-18-22 (2022-2031 Budget Effects)

Global Intangible Low-Taxed Income (GILTI)

Since the adoption of GILTI, the U.S rate has remained competitive with the OECD minimum tax. Unfortunately, scheduled changes to the international tax regime, including GILTI and FDII (discussed below) are expected to increase taxes on U.S. companies by $120 billion over the next 10 years.[8] These changes risk resuming a pre-TCJA trend of foreign companies acquiring U.S. companies, resulting in the loss of valuable U.S. jobs.

Starting in 2026, the tax rate on GILTI rises from 10.5% to 13.125%, with an effective rate exceeding 16.4%. If implemented, the U.S. GILTI rate would be higher than even the 15% rate negotiated by the Biden Administration under the OECD Pillar Two rules. Congress should eliminate double taxation of foreign tax credits and ensure the GILTI rate is not increased to a level that would uniquely disadvantage U.S. employers.

Repatriation and Ending the "Lockout Effect"

The 2017 tax reforms made it easier for companies to bring their foreign earnings back to the United Staes without onerous penalties, spurring investment and boosting revenue. Overall, firms have repatriated over $2.5 trillion in international earnings since passage of TCJA. International transactions data from the Bureau of Economic Analysis showed that in the years leading up to 2017, firms were repatriating only 34% of prior-year foreign earnings. Since 2019, they have on average repatriated over 55% of foreign earnings.

Before the 2017 tax reforms, the United States subjected its corporations to worldwide taxation and imposed a 35% tax rate on active foreign business income. The United States allowed corporations a credit for foreign taxes paid to soften the effects of the worldwide system and allowed corporations to defer paying U.S. taxes on their foreign earnings until the earnings were repatriated back to the United States. However, the combination of the high U.S. corporate tax rate as well as this deferral concept created a "lockout effect" where trillions of dollars of foreign earnings were held or invested overseas rather than repatriated back to the United States. This also contributed to the erosion of the U.S. tax base as some businesses "shifted" U.S. source income to one of the myriad lower-tax foreign jurisdictions.

In response, Congress enacted a one-time repatriation tax, ending the lockout effect and incentivizing companies to distribute foreign earnings back to the United States As part of the transition to the new system, trillions of unrepatriated earnings that had remained overseas were subject to immediate tax, generating hundreds of billions of dollars of revenue for the U.S. Treasury while also allowing those funds to be immediately returned home if a company desired.

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[8] Congressional Budget Office, Budgetary Outcomes under Alternative Assumptions about Spending and Revenues, May 2024, www.cbo.gov/publication/60114.

III. Continue and strengthen broad-based innovation incentives

Prior to tax reform, other countries, including France, China, the Netherlands and the United Kingdom, offered lower rates (as low as 0-5%) on income related to patents and certain other types of IP, but the United States did not. The absence of such an incentive reduced the attractiveness of the United States as a location for innovation. This impacted U.S. growth in innovation, the jobs it supports and tax revenue associated with income generated by the intellectual property located in the United States.

Foreign-Derived Intangible Income (FDII)

The 2017 tax reforms adopted policies to strengthen broad-based innovation incentives. The FDII regime provides a preferential U.S. rate on qualifying income and, via the GILTI regime, ensures that the similar income earned overseas would be taxed at the same rate. As a result of FDII, many companies have maintained ownership of IP in the United States and/or repatriated significant amounts of IP from abroad. According to JCT, gross royalty income subject to U.S. taxation (revenue that a corporation earns from licensing its IP to other parties) more than doubled, from $190 billion in 2017 to $386 billion in 2021, consistent with corporations both repatriating IP and developing new IP in the United States.[9]

FDII and GILTI, operating in tandem, created a tax incentive for U.S. companies to locate intangible income and associated valuable economic activity in the United States.

After 2025, the tax rate on FDII will rise from 13.125% to more than 16.4%, thereby reducing the competitiveness of the United States as a destination for intellectual property. This will lead to lower innovation and slower growth in the United States. Congress should maintain the current FDII rate.

R&D Amortization

For 70 years, bipartisan pro-innovation policy allowed for the immediate expensing of research and development investments. Starting in 2022, companies are required to amortize their domestic R&D costs over five years and their foreign R&D over 15 years, instead of deducting them immediately each year.

This change raised the cost of investment for U.S. companies, discouraged domestic R&D and reduced the level of economic output from that activity. Inflation-adjusted R&D investment grew 2.3% in the 12 months ending in June 2024, which is a marked downshift from the 7.4% average annualized growth from 2018 through 2021.

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[9] Paul Landefeld, "Modeling International Tax Proposals at the Joint Committee on Taxation," International Tax Policy Forum – Georgetown University Law conference presentation, Washington, DC, April 5, 2024.

Additionally, the United States is now one of only two developed countries without immediate expensing for R&D. Meanwhile, 17 countries provide a deduction that is more than 100% of eligible R&D expenses and China allows "super deductions" of 200%.

We encourage Congress to keep American companies competitive and restore immediate R&D expensing.

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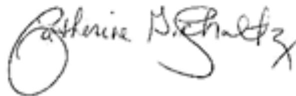
Thank you for your commitment to identifying legislative solutions that will build on the successes of the 2017 tax reform and support America's global competitiveness. As you consider changes to the tax system, retaining a permanent corporate tax rate of no more than 21%, maintaining a competitive international tax system and continuing and strengthening broad-based innovation incentives are of critical importance. We remain committed to working with you to maintain a competitive, pro-growth tax system for U.S. families, workers and businesses.

Sincerely,



Catherine Schultz
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cc: members of House Ways & Means Committee