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# Standard Deductions: U.S. Corporate Tax Policy

## *INTRODUCTION*

The way the United States taxes its corporations is outdated. The statutory U.S. corporate tax rate, which is the official rate before any tax breaks are applied, is the highest in the developed world and has remained largely unchanged for three decades. Unlike most other developed countries, the United States has a worldwide tax system, through which it taxes foreign profits. Yet the tax code allows corporations to defer these taxes if foreign profits stay abroad. Congress has also approved a number of tax breaks to encourage capital investment or research and development. Over the past three decades, these breaks have grown more generous and the share of profits earned abroad has increased so that the effective tax rate U.S. corporations actually pay has been steadily declining.

One consequence is that, even with the rich world's highest corporate tax rate, the United States does not raise as much corporate tax revenue as most other rich countries. And while U.S. corporate profits have reached record highs, the share of federal tax revenues coming from corporate taxes remains at historic lows. The high tax rate at home, combined with the deferral for overseas profits, also encourages corporations to hold profits abroad in lower-tax countries rather than return the money to the United States for investment or distribution to shareholders. Some corporations are also able to shift profits so they appear to have been earned in offshore tax havens. Finally, individual corporations pay highly uneven tax rates depending on whether they qualify for these tax breaks, with research-intensive multinational companies paying much lower rates, for example, than domestic retailers.

Long-term government inaction is mostly to blame. The way the United States taxes foreign profits was established in the 1960s. The last major tax overhaul was in the mid-1980s. While the U.S. government has stood still on corporate tax reform, most advanced countries

have been lowering corporate tax rates, reducing tax breaks, and changing how they tax foreign profits.

Both political parties and President Obama agree on the general contours of a likely reform that would move the tax system in the right direction: cutting the corporate rate, broadening the base, and taxing foreign profits differently. The main difference is that Democrats would cut rates by less than what Republicans are seeking, and President Obama would strengthen the worldwide system instead of shifting toward a more territorial system. But a strong bipartisan consensus exists to rein in profit shifting. Paying for tax cuts is politically difficult, however, since the obvious way is to scale back tax breaks that corporations rely on and many Americans support. But, with Americans increasingly supporting a tax overhaul, there may be growing political payoffs for politicians who can deliver tax reform.

## *WHERE THE UNITED STATES STANDS*

An ideal corporate tax system strikes the right balance among seemingly competing objectives. Policymakers who are concerned about competitiveness usually favor lower corporate taxes. Taxes slice into profits that could otherwise go toward productive investments, shareholder dividends, or employee wages. Corporations work to minimize their tax burden to maximize their profit margins and outcompete rivals. Countries want their corporations to be as competitive as possible; if a country's corporate taxes are high by international standards, their corporations are at a disadvantage. Countries also want to make sure they remain attractive destinations for corporations to locate, invest, and employ workers, and high taxes can affect those corporate decisions. But corporate taxes also pay for services—infrastructure, an educated workforce, stable rule of law—that corporations need to flourish. At the same time, under the current system, some types of companies pay high federal taxes but others pay scarcely any at all.

### *HIGH STATUTORY TAX RATE, BUT AVERAGE EFFECTIVE TAX RATE AND BELOW-AVERAGE REVENUES*

Within the rich world, the United States has the highest statutory corporate tax rate. The federal rate is 35 percent and the average state rate is 4 percent, adding to a 39 percent total tax rate. The United States

had one of the lower statutory corporate tax rates in the world the last time the rate was significantly cut in 1986. But while the U.S. rate has remained flat, other countries have been lowering their statutory rates over time (see figure 1). Some, like in the United Kingdom and Ireland, have carved out special low tax rates for patent-related income, called patent boxes, that are often half the statutory rate.

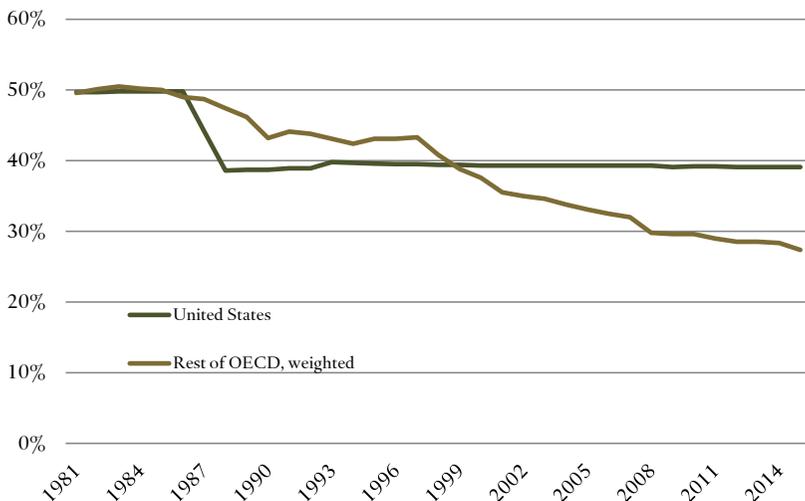
U.S. corporations, however, seldom pay the full statutory rate. Corporations can claim tax breaks that lower the effective tax rate, which is the rate they actually pay. When comparing effective tax rates, U.S. corporations on average pay closer to 27 percent, which is roughly on par with what other corporations pay in similarly advanced economies.<sup>1</sup>

Yet the United States collects relatively little corporate tax revenue. Statutory rates are lower in the rest of the OECD, yet those countries raise more corporate tax revenue—3 percent of GDP on average in 2013 against the United States' 2 percent.<sup>2</sup>

#### ***CORPORATE TAX BURDEN IS FLAT, BUT PROFITS ARE UP***

The share of all federal tax revenues coming from corporate taxes has remained steady since the 1980s, at about 11 percent.<sup>3</sup> The relative tax

**FIGURE 1. U.S. STATUTORY CORPORATE TAX RATE VERSUS REST OF THE OECD, WEIGHTED**



Source: OECD.

burden levied on individual taxpayers has also been flat. Yet the ability of corporations and individuals to pay taxes has moved in opposite directions. Corporate profits as a percentage of GDP are at record levels and, except for normal business cycle fluctuations, have been increasing since the 1980s. Wages as a share of GDP have been falling.

#### *LOW TAX RATE ON RISING FOREIGN PROFITS*

The United States stands apart most from other developed countries in the way it handles foreign profits. All corporations have to pay the local corporate tax rate in the countries in which they are doing business. For U.S. corporations, those same foreign profits are, at least in theory, subject to U.S. federal taxation. Taxing foreign profits is usually referred to as a worldwide tax system. The majority of rich countries are moving toward more territorial tax systems under which they exempt most foreign profits from taxation. Many U.S. corporations claim this creates an unfair playing field abroad, given that foreign competitors, in theory, face a lower overall tax burden.

Yet, in practice, U.S. corporations rarely pay much in U.S. taxes on foreign profits because they receive a credit for taxes paid abroad and are allowed to defer tax payments as long as those profits are retained abroad. The U.S. tax is only levied if and when profits are repatriated to the United States. As a consequence, U.S. corporations keep most of their foreign profits abroad—as much as \$2 trillion is currently retained offshore.<sup>4</sup>

Even including taxes paid to foreign governments, U.S. corporations face a lower overall tax burden on foreign profits than they do on domestic profits (see table 1). The best available estimate suggests that

*TABLE 1. U.S. CORPORATE TAX RATES COMPARED*

Statutory tax rate*	39.1%
Average effective tax rate (i.e., what U.S. corporations actually pay)	
... on <i>all</i> profits**	27.1%
... on <i>foreign</i> profits, including foreign and U.S. taxes***	15.7%
... on <i>foreign</i> profits, only U.S. taxes***	3.3%

Sources: \*OECD 2013, \*\*Gravelle 2012, \*\*\*Gravelle 2011.

U.S. corporations face an effective tax rate (including all foreign and U.S. taxes) of just 15.7 percent on their foreign profits.<sup>5</sup> The U.S. government collects only 3.3 percent in taxes on those profits.<sup>6</sup>

Foreign profits have been steadily increasing so that in the 2000s they constituted close to 20 percent of all U.S. corporate profits, double their share in the 1970s. Primarily because of this, the average effective corporate tax rate paid by U.S. corporations has been *steadily declining*—even though the U.S. statutory rate has remained essentially unchanged for three decades.<sup>7</sup>

### ***HUGE VARIATION IN TAX RATES FOR INDIVIDUAL CORPORATIONS***

But, like the statutory tax rate, the average effective tax rate is a misleading indicator because it hides the tremendous variation in what individual U.S. corporations actually pay after tax breaks. In the United States, the largest tax break is the deferral on foreign profits, followed by accelerated capital depreciation, the domestic production credit, and the R&D credit. The share of corporate profits coming from abroad has grown steadily, making the deferral tax break more substantial now than in the past. The remaining three big-ticket credits have also grown more generous in the 2000s.<sup>8</sup> Taken together, these credits benefit, for example, manufacturing, technology, or exporting companies more than retail companies. Thus, in 2014, General Electric, which has large capital and R&D investments and earns large foreign profits, self-reported having paid just 9.7 percent, while Target, whose sales are heavily retail and domestic, paid 36.5 percent in taxes.<sup>9</sup> A generation ago, the gap in effective tax rates was narrower.

Different tax rates for different types of corporations are not always a bad thing. Some tax breaks correct for market failures. Many economists argue, for example, that businesses involved in R&D generate more benefits for society than retail businesses. And because R&D is highly speculative, or carries substantial costs and risks for businesses, these businesses would underspend on R&D if it were not for government subsidies like the R&D credit. The tricky part is finding the right subsidy level and keeping it well targeted. The R&D credit could be better targeted.<sup>10</sup> More corporations (and small businesses) are claiming the credit and reaping larger breaks. Yet too many normal business expenses are leaking into R&D credit claims that should only include

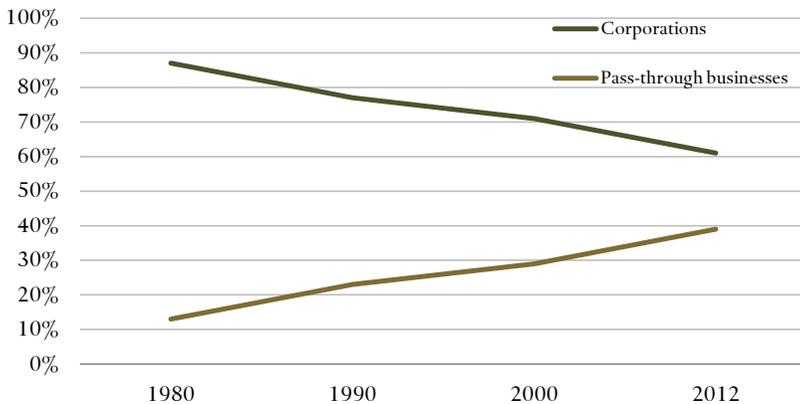
truly scientific and technological research. The merit of specific tax breaks aside, the larger question is whether society is benefiting enough to justify the hugely uneven tax rates that exist between corporations like General Electric and Target.

### *MORE NONCORPORATE PROFITS*

A growing number of firms do not pay the corporate tax, which has become essentially a tax on big business. Less than 10 percent of U.S. businesses file as corporations, and among these, a tiny proportion pays the lion's share. In 2008, approximately 83 percent of all corporate taxes came from the 0.1 percent of corporations that earned more than \$250 million in profits.<sup>11</sup> Conventional corporations (called C corporations for tax purposes) still make up the majority of the country's business receipts. But their share is down from what it was in 1980, and an increasing share is made up of businesses whose profits can "pass through" to lower individual tax rates (see figure 2).

The problem is that many of these pass-through businesses closely resemble C corporations that are subject to the corporate tax. Policy changes, mostly to help small businesses, have made it easier for firms to enjoy all the benefits of corporate status, like limited-liability protection, without paying corporate taxes. But today some of these firms are not so small when it comes to profits, particularly S corporations. These

*FIGURE 2. SHARE OF TOTAL U.S. BUSINESS RECEIPTS, CORPORATIONS VERSUS PASS-THROUGH BUSINESSES*



Source: IRS.

corporations, which cannot have more than one hundred shareholders, account for most of the business growth in pass-through firms. S corporations with annual earnings over \$50 million account for roughly 30 percent of all S-type corporate revenue.<sup>12</sup> According to one analysis, these firms pay an average tax rate that is 6 percentage points lower than a firm that is subject to the corporate tax.<sup>13</sup> The Congressional Budget Office estimates that if all S corporations and limited-liability businesses were taxed at the corporate rate, federal corporate tax revenues in 2007 would have been 22 percent higher.<sup>14</sup> It is not uncommon for other developed countries to have similar rules allowing tax pass-throughs for businesses, but those businesses tend to have much smaller profits and play a smaller role in their economies than in the United States.<sup>15</sup> The difference between their corporate and pass-through tax rates also tends to be narrower, so taxes play a smaller role in how firms decide to organize themselves.<sup>16</sup>

#### *MORE PROFIT SHIFTING TO TAX HAVENS*

Deliberate tax avoidance by holding profits in tax havens is also eroding the corporate tax base. Corporations can alter profits made in high-tax countries so they appear to have been earned in low-tax countries, a tactic called profit shifting. Most large countries have statutory corporate tax rates above 20 percent. Tax haven countries tend to be small and have rates far below that. Ireland, for example, has a 12.5 percent corporate tax rate, and Bermuda has no corporate tax at all. A U.S. corporation can start a foreign subsidiary in a tax haven for allocating profits, lending money, or housing intangible assets like patents and trademarks. This is especially useful for technology companies such as Apple or pharmaceutical companies such as Pfizer that rely heavily on intangible income. Corporations can move intangible assets abroad for reasons other than taxes—for example, to align the location of such assets with the markets in which they will be used. But most profit shifting (in dollar volume) occurs through the manipulation of intangible assets.

Profit shifting also contributes to uneven effective tax rates on foreign profits. Corporations relying on intangible assets can drive their overall tax burden on foreign profits down to zero if they are smart about parking those assets in tax havens. But corporations relying on immovable tangible assets, such as oil or mining operations, cannot shift profits to

tax havens, and face steep local taxes that are often higher than the U.S. statutory rate.<sup>17</sup>

Such tax avoidance is widespread. The five most popular tax havens account for 1 percent of the global economy, but 24 percent of reported foreign profits by U.S. multinational corporations.<sup>18</sup> The problem is getting worse; the gap has grown over time between the location of U.S. corporate investments and the location of their reported profits.<sup>19</sup> According to a Congressional Research Service report, profit-shifting tax avoidance is estimated to cost the federal government upward of \$100 billion annually in lost revenue.<sup>20</sup>

This problem is not exclusive to the United States. All major developed countries are facing eroding corporate tax bases because of profit shifting. Although firm statistics are hard to come by, anecdotally at least, U.S. corporations such as Apple and Google appear to benefit the most from these tactics.<sup>21</sup> U.S. laws are also more lax when it comes to profit shifting.

#### ***OTHER COUNTRIES ARE DOING MORE TO PREVENT PROFIT SHIFTING***

Countries that have been moving toward territorial tax systems and cutting rates have also been tightening anti-avoidance laws. The UK and Australia recently created a penalty, dubbed a Google Tax, under which any company caught profit shifting would have to pay an elevated tax on those profits.<sup>22</sup> If the German government sees that the location of investments and sales is out of balance with reported profits, tax authorities can quickly move to tax the profits in question. Japan recently began taxing profits reported in countries with corporate tax rates below a certain threshold. In Italy, profits are taxed if reported in blacklist tax havens. The European Union is going after member states, such as Ireland, Luxembourg, and the Netherlands, that have signed preferential tax agreements with individual companies on the grounds that such agreements violate internal EU competition fairness laws.<sup>23</sup>

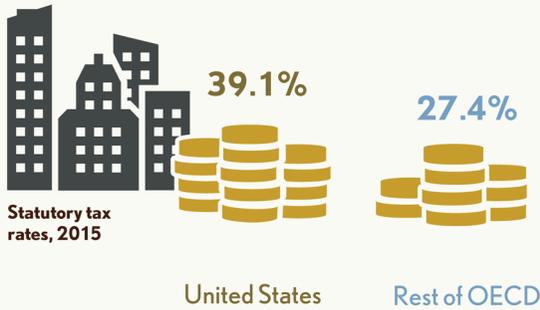
Although it is difficult to know how effective these new anti-avoidance measures are in practice, such policy changes imply that other advanced countries are more serious than the United States about combating profit shifting. In the 1990s and through 2004, the United States



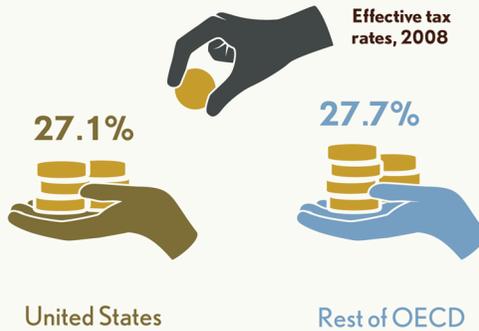
## Standard Deductions

### U.S. Corporate Tax Policy

#### Uneven Rates



The United States has the highest corporate tax rate in the developed world before tax breaks are taken into account.



But because of tax breaks approved by Congress, U.S. corporations pay an effective tax rate similar to what their international competitors pay.

actually loosened its foreign profit anti-avoidance rules and has taken few major steps to reverse course to date.<sup>24</sup>

### *INTERNATIONAL COOPERATION TO COMBAT TAX AVOIDANCE*

Some tax scholars are skeptical that any anti-avoidance provisions or rate reductions will make a real dent in profit shifting. Corporations with armies of highly paid tax lawyers will find ways to exploit tax rate and policy differences among countries. Even if Congress found a revenue-neutral way to lower the federal rate to 25 percent, the U.S. national rate would still be more than twice the Irish rate, for example. And if the United States lowers rates, other countries may respond by lowering their rates further, as they did the last time the U.S. federal government cut corporate rates in 1986.

But no large advanced country wants a race to the bottom in corporate tax rates. One response has been new efforts by countries to cooperate through tax information exchanges and transparency. Tax transparency will help policymakers keep closer tabs on where and how corporations are reporting their profits. More visibility will also give policymakers more political leverage to strengthen anti-avoidance provisions. Tax auditors would have the public backing to be more aggressive. And image-conscious corporations might be compelled to change their ways.

This is similar to what happened with Starbucks in the United Kingdom. The company had not paid any taxes in the United Kingdom for five years until its tax-avoidance strategies made front-page news and sparked a consumer boycott. To console consumers, Starbucks announced in 2013 that it would pay British taxes.<sup>25</sup> Amid the public furor, conservative Prime Minister David Cameron promised to crack down on such avoidance.<sup>26</sup>

The U.S. system could benefit from more transparency. The U.S. Internal Revenue Service already has reams of data that could shed light on U.S. corporate profit shifting. But the information is not systematically analyzed or made publicly available. Just this past year, the European Union passed legislation requiring public disclosure of corporations' country-by-country profit and tax information.

The OECD has been leading the charge on tax transparency for some time. In the 1990s, it began identifying and exposing harmful tax

practices. In 2009, it expanded its efforts to include a review of each country's tax system to evaluate the legal and regulatory framework, including transparency of tax calculations and payment information. One hundred and twenty countries are now participating in the review process. Under international pressure, all major tax havens have agreed to share tax information with higher-tax countries. The number of bilateral tax information–exchange agreements signed has soared, which allow countries to request information to verify their corporations' business dealings abroad, including bank statements, interest payments, and employee wages.<sup>27</sup> As recently as 2006, only a handful of these agreements were signed per year. By 2010, that rate reached hundreds per year.

In 2015, the OECD went further than promoting transparency, writing a new set of legal standards that member states can use to combat profit shifting. The project's leading architect claimed the golden era of international corporate tax avoidance was coming to a close.<sup>28</sup> That may be wishful thinking, but governments are getting more serious about profit shifting, and companies are taking note, adjusting their behavior. In the summer of 2015, for example, Amazon began reporting revenue where purchases had been made in the UK and France rather than in low-tax Luxembourg, where it had been reporting revenue in the past.<sup>29</sup>

## ***COMPETITIVENESS IS NOT THE MAIN PROBLEM***

In the popular press and within the business community, the U.S. corporate tax system is often accused of weakening U.S. economic competitiveness. Indeed, in a World Economic Forum survey of executives, U.S. respondents ranked taxes as the most problematic factor for doing business in the United States.<sup>30</sup> And according to the WEF's competitiveness index, besides government debt, U.S. performance is ranked poorest on taxes.<sup>31</sup> In a 2015 Harvard Business School survey of ten thousand alumni working in senior business positions, the U.S. tax code was the most-cited weakness for U.S. competitiveness compared to other advanced economies.<sup>32</sup>

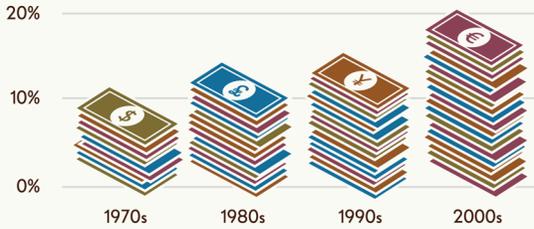
But other evidence suggests competitiveness is not the main problem with the current corporate tax system. U.S. companies that do much of



# Standard Deductions

## U.S. Corporate Tax Policy

### Tax Breaks



Foreign profits as percentage of total corporate profits, before taxes

The biggest tax break is for foreign profits, which have been increasing steadily as a share of corporate profits.



Target



Hewlett Packard



General Electric



Company annual effective tax rates, 2014

As a result of these rules, some companies with high foreign profits pay a low tax rate.

their business overseas normally pay much less in taxes than corporations that do most of their business within the United States. With such a low effective rate on foreign profits, it is not clear that U.S. corporations operating abroad are facing significant disadvantages compared with competitors based in other countries with territorial tax systems. According to one study that calculated the global tax burden of the largest two hundred Europe- and U.S.-based multinational corporations, U.S. corporations were no worse off and perhaps even better off than their European counterparts.<sup>33</sup>

In theory, U.S.-headquartered corporations could reduce their tax burden by reincorporating in a country with a territorial tax system, and this has happened in a few cases.<sup>34</sup> But evidence is scant that this is occurring on a large scale, perhaps given the many avenues already available for reducing tax liabilities.<sup>35</sup> Nor is there any trend toward new companies incorporating abroad. Other factors like lower wages, proximity to fast-growing markets, and government investment incentives are usually larger inducements for U.S. corporations to invest overseas than tax rates.

A few high-profile inversions in 2014 saw much smaller foreign companies in lower-tax countries buying giant U.S. corporations—deals motivated in large part to avoid tax bills.<sup>36</sup> Within a few months, the U.S. Treasury put new regulations in place that made inversions harder to achieve from a technical standpoint and reduced the potential tax benefits.<sup>37</sup>

Research has found, however, that the high U.S. corporate tax rate encourages corporations to invest more abroad than they otherwise would. According to one study, if the U.S. corporate tax rate is one percentage point higher than the rate in another country, U.S. corporations' employment in that country tends to be higher by 1.6 percent and sales higher by 2.9 percent.<sup>38</sup> Another study found that corporate tax rates within the European Union played a more important role in determining investment flows between EU member states than economic fundamentals.<sup>39</sup>

But the corporate tax may not have a large influence on overall economic output. Two authoritative studies have projected that lowering the U.S. corporate tax rate closer to rates in the rest of the developed world would raise U.S. output by two-tenths to four-tenths of 1 percent of GDP.<sup>40</sup>

## *THE REFORM DEBATE*

The golden rule of tax reform is to lower rates and broaden the base. The two usually go together because of revenue constraints; the lower rates lead to less revenue, and eliminating tax breaks is the most common and politically palatable way to offset the lost revenue. The tax overhaul of 1986 attempted to do just that, and most serious corporate tax reform proposals today take the same approach.

Consensus is growing among economists that, compared with a personal income or consumption tax, the corporate tax is most harmful to investment—and therefore to productivity and economic growth.<sup>41</sup> Critics of the corporate tax argue that it is effectively a double tax, in that corporate profits are taxed again when they are paid out as dividends. Ideally, taxes would only be applied once to the same income. Many economists would like to do away with the corporate tax altogether and to have all income taxed as individual income or to tax consumption instead of income.

Differences in how conservatives and liberals have viewed corporate tax reform are significant. Conservatives tend to want to keep the corporate tax burden low and also worry about how the corporate tax may distort business behavior. Liberals have historically been more comfortable using the corporate tax system to encourage certain economic and business outcomes. Tackling climate change may mean giving a tax break to green energy companies, for example, and tax policy could be used to discourage companies from outsourcing jobs.

## *CURRENT PROPOSALS*

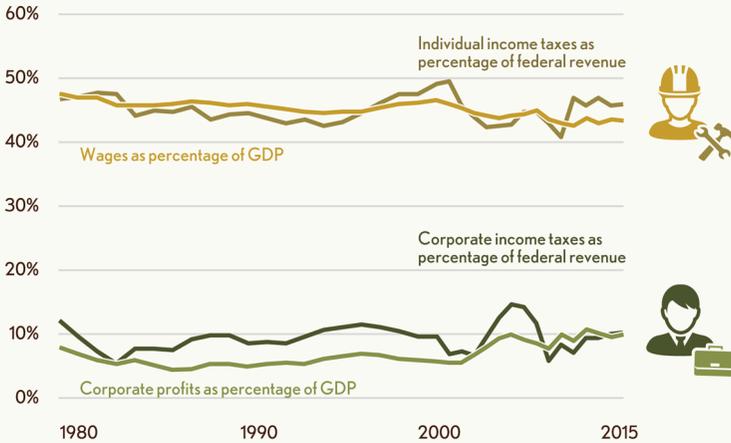
Most of the problems facing the corporate tax system have accumulated from years of inaction on tax policy. The economy has changed, but lawmakers have failed to update the corporate tax system with it. To be sure, lawmakers have contributed to the growing unevenness in tax rates over time by sweetening some big corporate tax breaks for specific industries. But the U.S. corporate tax system has remained largely frozen since the last major overhaul in 1986. The rules that govern how to tax foreign profits were written in the 1960s, long before U.S. corporations became true multinational entities and earned large foreign profits, and long before they began shifting intangible assets abroad to tax havens.



# Standard Deductions

## U.S. Corporate Tax Policy

### Eroding Base



Corporate profits are up and wages are down, yet there has been little change in tax burden.



Tax havens make up  
**1%**  
of the world economy...

...but shelter  
**24%**  
of U.S. corporate foreign profits

Encouraged by U.S. tax law, U.S. corporations are moving profits to tax havens.

The good news is that in theory both Republicans and Democrats favor reforms that would modernize the U.S. corporate tax system by lowering rates, broadening the base, and changing how foreign profits are taxed. This would make the system more coherent and effective rates more even, as well as bring the United States closer in line with other rich countries. And policymakers from both sides of the aisle want to curtail profit shifting, so that corporations would not be able to shift as much money to tax havens. Stronger anti-avoidance rules, for example, could place a minimum tax on foreign intangible (i.e., patent or trademark) income and limit the amount of money that could be borrowed on behalf of a foreign subsidiary. One bipartisan Senate proposal in 2015 called for a U.S. patent box similar to ones in the UK and Ireland to boost innovation and to encourage such income to be reported in the United States.<sup>42</sup> Some bipartisan discussion has focused on subjecting repatriated foreign profits to a one-time toll tax at a lower rate than the statutory level and using the new revenue to pay for highway maintenance and construction.<sup>43</sup>

Where Democrats and Republicans tend to disagree most is how far tax rates should be cut and how to reform the tax on foreign profits. Obama's budget proposals would lower the federal statutory corporate rate to 28 percent, which would still leave the U.S. rate the third-highest in the OECD, behind Japan and France. Most congressional Republican plans would lower the rate to 25 percent, putting the U.S. rate closer to the OECD average. Obama's plan would strengthen the worldwide system, tweaking accounting metrics so that the share of foreign profits that cannot be deferred—and therefore would be subject to U.S. taxation—would increase. Republicans would rather transition toward a more territorial system.

The bad news is that for now there is little political will to push through a tax overhaul that would require harsh trade-offs in repealing coveted tax breaks to pay for rate cuts. The politics are understandably hard. Rate cuts may be a relatively easy sell, but rolling back major tax breaks to pay for them is not. Take manufacturing. Across the political spectrum, policymakers champion the cause of U.S. manufacturing. But because manufacturing has been a winner with the current tax breaks, any reform of the corporate tax system would likely hurt that sector. And because manufacturing is the sector of the economy most subject to international competition, it would be difficult to sell a tax increase on manufacturers as somehow “pro-competitive.” The R&D

credit is also popular with the public, and economists generally believe it generates substantial spillover benefits for the U.S. economy. The depreciation tax credit offers huge benefits, too. A 2007 Treasury report argued its repeal may actually harm investment in the long run and would offset any advantages of lowering the statutory rate.<sup>44</sup> Domestic investment in the United States has been weak over the past decade, which would argue for continuing to encourage investment through the tax system.<sup>45</sup>

The difficult arithmetic and politics make tax reform a delicate dance. Case in point is the less-than-warm reception of former House Ways and Means Committee Chairman Representative David Camp's (R-MI) 2014 tax overhaul proposal, the most ambitious and realistic plan written in decades. It would have rolled back nearly all the big-ticket tax breaks to offset the reduced 25 percent rate. Congressional leadership quickly shelved the proposal, however, in the face of business opposition, and Camp left office later that year. Without repealing the tax breaks, using base-broadening to pay for rate cuts is all but impossible. Repealing them, however, would touch off an epic battle with certain corporate interests. Few options to broaden the tax base are politically easy.

#### **OTHER POLICY IDEAS**

*Tax holiday.* Corporations have pushed for a tax holiday that would allow them to voluntarily repatriate foreign profits housed abroad. This is different from the congressional and presidential proposals, which would set a mandatory tax on all unrepatriated profits. Policymakers temporarily lowered the tax rate on foreign profits to 5.25 percent in 2004 with the expectation that corporations would use the repatriated money for new domestic investment and job creation. Instead, firms mostly used the tax holiday to increase dividends for shareholders.<sup>46</sup> The companies that benefited the most actually cut their employment rolls the following year. There are also concerns that another holiday could set a dangerous precedent by which corporations would park more profits abroad awaiting the next repatriation holiday.

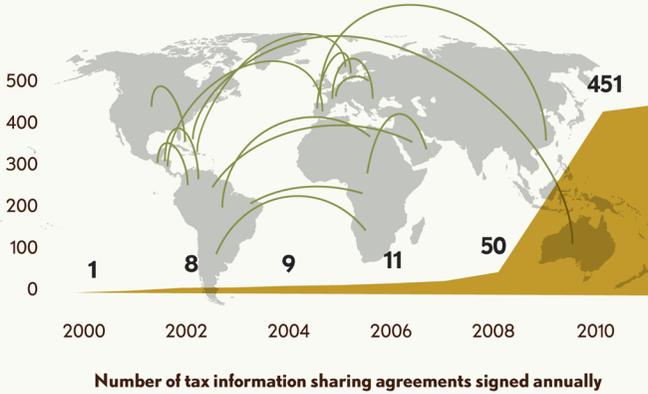
*Formula apportionment.* Another policy option is to tax profits based on a formula indicating where corporate spending takes place instead of where profits are reported. To give a rough example, if 20 percent of a corporation's payroll expenses and investments are located in the



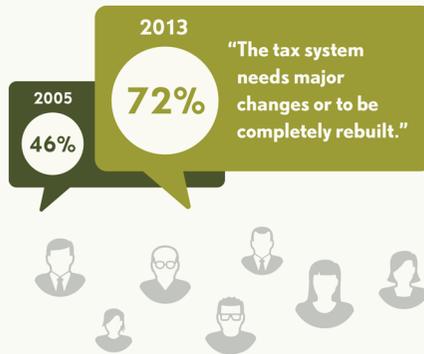
# Standard Deductions

## U.S. Corporate Tax Policy

### Future Opportunities



Through tax agreements, the developed world is trying to crack down on tax avoidance.



The public is increasingly in favor of a tax code overhaul.

United States, the U.S. government would tax 20 percent of its global profits. Although no federal policymaker has endorsed the method, several U.S. states use formula apportionment to calculate corporate taxes for business activity within their borders. The European Union has been taking steps to adopt formula apportionment for internal business activity as well. A different possibility is to tax foreign profits only in countries with tax rates below a certain level, as Japan is doing.

*National consumption tax.* The United States is the only advanced country without a national consumption tax, the most common form being a sales or value-added tax (VAT). Sales taxes in the United States have historically been the preserve of state and local governments, which have resisted a national sales tax in fear that it would cannibalize their tax revenues. Many small-government conservatives are also opposed to creating a new federal tax instrument. Other advanced countries rely much more on consumption taxes to raise tax revenue. Including all excise and state and local sales taxes, consumption taxes raise just 15 percent of all U.S. tax revenue.<sup>47</sup> In the rest of the OECD, the share is twice that. Under world trade rules, VATs could also be rebated when a company exports from the United States, offsetting any competitive disadvantage from the additional tax burden. One of the biggest challenges with corporate tax reform is finding enough revenue to offset rate cuts, and a VAT could help make up the difference.

## *FUTURE PROSPECTS*

Congress may be shelving tax reform for now, but political payoffs may be growing for politicians who can deliver it. Corporate tax avoidance has attracted more media attention, most notably after Apple CEO Tim Cook testified in front of a Senate panel trying to defend the highly successful U.S. company against accusations of “tax gimmickry.”<sup>48</sup> Although few Americans understand the complexities of corporate tax rules, 72 percent say the nation’s tax system needs major changes or should be entirely reconstructed, a substantially higher share than the 46 percent who said so in 2005. It is an opinion equally shared among Republicans, Democrats, and all demographic groups.<sup>49</sup>

While working together on the congressional supercommittee in 2011, the two heads of the major tax-writing authorities in the House

and Senate said the greatest common ground on major tax code revisions was on corporate taxes. The contours of a likely reform have been drawn—cutting corporate rates, evening out effective rates, and taxing foreign profits differently. But difficult political compromises are still ahead before the United States can move forward on corporate tax reform.

# Endnotes

1. The U.S. average effective tax rate is roughly on par with the weighted OECD average effective tax rate. See Jane G. Gravelle, "International Corporate Tax Rate Comparisons and Policy Implications," CSR Report no. R41743, December 28, 2012, p. 3, <https://www.fas.org/sgp/crs/misc/R41743.pdf>. For a corroboration of Gravelle's findings, see Martin A Sullivan, "U.S. Effective Corporate Tax Rate Higher Than Foreign Competitors? Not Really," *Taxanalysts*, March 23, 2015, <http://www.taxanalysts.com/taxcom/taxblog.nsf/Permalink/UBEN-9TCN3X?OpenDocument>.
2. "Revenue Statistics: Corporate Tax on Profit as a Percentage of GDP," Organization for Economic Cooperation and Development, <https://stats.oecd.org/Index.aspx?DataSetCode=REV>; Mark P. Keightley and Molly F. Sherlock, "The Corporate Income Tax System: Overview and Options for Reform" Congressional Research Service Report R42726, September 13, 2012, <http://www.fas.org/sgp/crs/misc/R42726.pdf>.
3. Office of Management and Budget, Historical Tables, table 2.1, <http://www.whitehouse.gov/omb/budget/HISTORICALS>.
4. For the \$2 trillion figure, see Dena Aubin, "U.S. companies' overseas earnings hit record \$1.9 trillion: study," Reuters, May 8, 2013, <http://www.reuters.com/article/2013/05/08/us-usa-taxes-oveseas-idUSBRE9470Z920130508>; for foreign effective tax rate, see Melissa Costa and Jennifer Gravelle, "Taxing Multinational Corporations: Average Tax Rates," presented at an American Tax Policy Center conference, October 2011, <http://www.americantaxpolicyinstitute.org/s/pdf/Costa-Gravelle%20paper.pdf>.
5. Costa and Gravelle, "Taxing Multinational Corporations: Average Tax Rates."
6. For the \$2 trillion figure, see Aubin, "U.S. companies' overseas earnings"; for foreign effective tax rate, see Costa and Gravelle, "Taxing Multinational Corporations."
7. Martin A. Sullivan, *Corporate Tax Reform: Taxing Profits in the 21st Century* (New York: Apress, 2011), pp. 22–23.
8. A bonus to the normal depreciation credit was added during the recession in 2008, greatly expanding its generosity. The R&D credit has been gradually expanded since the 1980s. The domestic production credit, which was introduced in 2004, replaced a much less generous credit called the extraterritorial income regime, or ETI.
9. "Target's Annual Effective Tax Rate," [Csimarket.com](http://Csimarket.com); and "General Electric Co., effective income tax rate (EITR) reconciliation," <https://www.stock-analysis-on.net/NYSE/Company/General-Electric-Co/Analysis/Income-Taxes#EITR>. For more background on the disparity in effective corporate tax rates, see the U.S. House of Representatives, Committee on Ways and Means, Testimony of Martin A. Sullivan, January 20, 2011, [http://waysandmeans.house.gov/uploadedfiles/sullivan\\_written\\_testimony\\_wm\\_jan\\_20.pdf](http://waysandmeans.house.gov/uploadedfiles/sullivan_written_testimony_wm_jan_20.pdf).
10. Martin Sullivan, "The Problem with the Research Tax Credit," *Forbes*, October 30, 2013, <http://www.forbes.com/sites/taxanalysts/2013/10/30/the-problem-with-the-research-tax-credit>.

11. Sullivan, *Corporate Tax Reform*, p. 19.
12. *Ibid.*, p. 106.
13. Steven Pearlstein, "Marty Sullivan figured out how the world's biggest companies avoided billions in taxes. Here's how he wants to stop them," *Washington Post*, October 26, 2013, <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/10/26/marty-sullivan-figured-out-how-the-worlds-biggest-companies-avoided-billions-in-taxes-heres-how-he-wants-to-stop-them>.
14. "Taxing Businesses Through the Individual Income Tax," Congressional Budget Office, December 2012, p. 15, <http://www.cbo.gov/sites/default/files/cbofiles/attachments/43750-TaxingBusinesses2.pdf>.
15. "Treasury Conference on Business Taxation and Global Competitiveness: Background Paper," U.S. Department of the Treasury, July 23, 2007, <http://www.treasury.gov/press-center/press-releases/Documents/07230%20or.pdf>.
16. Martin A. Sullivan, "JCT Report Provides New Insight on Competitiveness," *Taxanalysts*, February 3, 2015, <http://www.taxanalysts.com/taxcom/taxblog.nsf/Permalink/UBEN-9TCN3X?OpenDocument>.
17. Martin A. Sullivan, "Foreign Tax Profile of Top 50 U.S. Companies," *Taxanalysts*, July 25, 2011, <http://www.taxanalysts.com/www/features.nsf/Articles/022A377AEFD25A52852578D8006F1EAC?OpenDocument>.
18. Sullivan, *Corporate Tax Reform*, p. 96.
19. Mark Keightley, "An Analysis of Where American Companies Report Profits: Indications of Profit Shifting," Congressional Research Service Report R42927, January 18, 2013, <https://www.fas.org/sgp/crs/misc/R42927.pdf>.
20. Jane G. Gravelle, "Tax Havens: International Tax Avoidance and Evasion," CSR Report no. R40623, January 15, 2015, p. 1, <https://www.fas.org/sgp/crs/misc/R40623.pdf>.
21. Martin Sullivan, telephone interview, September 26, 2013.
22. Alex Heber, "Australia will get a 'Google tax' in the federal budget," *Business Insider Australia*, May 11, 2015, <http://www.businessinsider.com.au/australia-will-get-a-google-tax-in-the-federal-budget-2015-5>.
23. Stephanie Soong Johnston, "EU to Investigate Apple, Starbucks, and Fiat Tax Rulings," *Taxanalysts*, June 13, 2014, <http://www.taxanalysts.com/www/features.nsf/Features/E41550AF2BBC6FD985257CF6005FB324?OpenDocument>.
24. President Obama's 2010 Jobs Act did tighten some rules about taxing foreign profits, but it will raise only an extra \$1 billion a year for ten years.
25. Terry Macalister, "Starbucks pays corporation tax in UK for first time in five years," *Guardian*, June 23, 2013, <http://www.theguardian.com/business/2013/jun/23/starbucks-pays-corporation-tax>.
26. Nigel Morris, "I'll make 'damn sure' big companies pay their tax, says David Cameron," *Independent*, January 4, 2013, <http://www.independent.co.uk/news/uk/politics/ill-make-damn-sure-big-companies-pay-their-tax-says-david-cameron-8439137.html>.
27. "Report to the G20 Leaders: Global Forum Update on Effectiveness and Ongoing Monitoring," Organization for Economic Cooperation and Development, September 2013, [http://www.oecd.org/tax/transparency/progress\\_report\\_G20.pdf](http://www.oecd.org/tax/transparency/progress_report_G20.pdf).
28. Tom Bergin and Maya Dyakina, "G20 backs fundamental reform of corporate taxation," *Reuters*, July 19, 2013, <http://www.reuters.com/article/2013/07/19/g20-tax-corporate-idUSL6NoFP25A20130719>.
29. Paul Hannon and Sam Schechner, "OECD Rewrites Corporate Tax Rule Book," *Wall Street Journal*, October 5, 2015, <http://www.wsj.com/articles/oecd-rewrites-corporate-tax-rule-book-1444046845>.
30. Klaus Schwab, ed., *The Global Competitiveness Report 2014–2015* (Geneva: World Economic Forum, 2014), p. 378, [http://www3.weforum.org/docs/WEF\\_GlobalCompetitivenessReport\\_2014-15.pdf](http://www3.weforum.org/docs/WEF_GlobalCompetitivenessReport_2014-15.pdf).

31. Ibid, p. 379.
32. Jan W. Rivkin et al., "The Challenge of Shared Prosperity: Findings of Harvard Business School's 2015 Survey of U.S. competitiveness," Harvard Business School, September 2015, p. 7, <http://www.hbs.edu/competitiveness/Documents/challenge-of-shared-prosperity.pdf>.
33. Reuven Avi-Yonah and Yaron Lahav, "The Effective Tax Rate of the Largest US and EU Multinationals," Law & Economics Working Paper no. 41, 2011, [http://repository.law.umich.edu/law\\_econ\\_current/art41](http://repository.law.umich.edu/law_econ_current/art41).
34. David Cay Johnston, "U.S. Corporations Are Using Bermuda to Slash Tax Bills," *New York Times*, February 18, 2002, <http://www.nytimes.com/2002/02/18/business/us-corporations-are-using-bermuda-to-slash-tax-bills.html?pagewanted=all&src=pm>.
35. Eric J. Allen and Susan C. Morse, "Tax Haven Incorporation for U.S. Headquartered Firms: No Exodus Yet," *National Tax Journal* 66, 2013, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1950760](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1950760).
36. Patrice Hill, "Whopper of a corporate tax ate fries Burger King and others seeking tax inversions," *Washington Times*, September 4, 2014, <http://www.washingtontimes.com/news/2014/sep/4/burger-kings-tax-inversion-deal-just-latest-move-f/?page=all>.
37. "Fact Sheet: Treasury Actions to Rein in Corporate Tax Inversions," U.S. Department of the Treasury, September 22, 2014, <http://www.treasury.gov/press-center/press-releases/Pages/jl2645.aspx>.
38. Kimberly A. Clausing, "Multinational Firm Tax Avoidance and Tax Policy," *National Tax Journal* 62, no. 4, December 2009, <http://www.ntanet.org/NTJ/62/4/ntj-v62no4p703-25-multinational-firm-tax-avoidance.pdf>.
39. Nahid Kalbasi Anaraki, "Does Corporate Tax Rate Affect FDI? Case Study of Core European Countries," *Journal of Global Economics* 11, no. 2, 2015, <http://www.rcssindia.org/jge/index.php/jge/article/view/394>.
40. "Macroeconomic Analysis of Various Proposals to Provide \$500 Billion in Tax Relief," Joint Committee on Taxation, March 1, 2005, <https://www.jct.gov/publications.html?func=startdown&id=1611>; and U.S. Senate Joint Economic Committee, "Lessons From Reagan: How Tax Reform Can Boost Economic Growth," Testimony of Jane Gravelle, July 31, 2013, p. 3, [http://www.jec.senate.gov/republicans/public/?a=Files.Serve&File\\_id=a4971933-7917-4392-bc16-ee1cf2a21112](http://www.jec.senate.gov/republicans/public/?a=Files.Serve&File_id=a4971933-7917-4392-bc16-ee1cf2a21112).
41. Åsa Johansson, Christopher Heady, Jens Arnold, Bert Brys, and Laura Vartia, "Tax and Economic Growth," OECD Economics Department Working Paper no. 620, July 11, 2008, <http://www.oecd.org/tax/tax-policy/41000592.pdf>.
42. Jonathan Weisman, "Plan to Curb U.S. Taxation of Overseas Profit Finds Bipartisan Support," *New York Times*, July 8, 2015, <http://www.nytimes.com/2015/07/09/business/end-to-us-taxation-of-overseas-profit-finds-bipartisan-support.html>.
43. Jim Puzzanghera, "Bipartisan support grows for corporate tax change tied to Highway Trust Fund," *Los Angeles Times*, July 14, 2015, <http://www.latimes.com/business/la-fi-corporate-tax-plan-20150714-story.html>.
44. Office of Tax Policy, *Approaches to Improve the Competitiveness of the U.S. Business Tax System for the 21st Century*, U.S. Department of the Treasury, December 2007, <http://www.treasury.gov/resource-center/tax-policy/Documents/Approaches-to-Improve-Business-Tax-Competitiveness-12-20-2007.pdf>.
45. Luke A. Stewart and Robert D. Atkinson, "Restoring America's Lagging Investment in Capital Goods," Information Technology & Innovation Foundation, October 2012, <http://www2.itif.org/2013-restoring-americas-lagging-investment.pdf>.
46. Michael Mundaca, "Just the Facts: The Costs of a Repatriation Tax Holiday," U.S. Department of Treasury, <http://www.treasury.gov/connect/blog/Pages/Just-the-Facts-The-Costs-of-a-Repatriation-Tax-Holiday.aspx>.

47. "Consumption Tax Trends," Organization for Economic Cooperation and Development, table 1.1, [http://www.oecd-ilibrary.org/taxation/consumption-tax-trends-2012\\_ctt-2012-en](http://www.oecd-ilibrary.org/taxation/consumption-tax-trends-2012_ctt-2012-en).
48. John Ydstie, "Apple CEO Faces Senate Panel's Accusations of 'Tax Gimmickry,'" NPR, May 21, 2013, <http://www.npr.org/2013/05/21/185688463/ceo-cook-to-defend-apple-before-senate-committee-hearing>.
49. Carroll Doherty, "Public Wants Reform. But What Kind of Reform?" Pew Research Center, May 22, 2013, <http://www.pewresearch.org/fact-tank/2013/05/22/public-wants-tax-reform-but-what-kind-of-reform>.

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