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Considering Potential International Corporate Tax Reforms in the US

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Key findings

- Tax legislation in 2025 may have good reason to address international corporate income taxes, because of scheduled changes slated to go into effect or because of international developments like the Pillar Two agreement.
- International tax policy is difficult to optimize, but it should attempt to improve competitiveness, protect the US tax base, and limit complexity.
- The US international system dates to the 2017 Tax Cuts and Jobs Act (TCJA), and while much of it was well-considered, some elements unnecessarily hinder cross-border investment.
- The US has unique characteristics that make its tax policy considerations different from those of other OECD countries; the Pillar Two global minimum tax agreement offers the US relatively few benefits.
- Modeling international tax policies is subject to considerable uncertainty. However, taxes on US corporations' foreign earnings likely exceed the taxes implemented by the Pillar Two global minimum tax agreement.
- A competitive US international tax policy plan would preserve the foreign-derived intangible income (FDII) provision and fix TCJA-era policies that unduly burden cross-border investment, while raising tax revenue at the much simpler level of distributed profits.

Introduction

Congress is considering a package of tax policy changes this year, and reforms to US international corporate income tax rules may be a component of that tax package. This report will discuss potential changes here, including both qualitative and quantitative analysis.

The primary impetus for Congress to act on taxes is the scheduled expirations of significant provisions of the individual income tax code from the 2017 Tax Cuts and Jobs Act (TCJA). The sunset of the TCJA individual income tax code expirations does not directly affect TCJA's corporate income tax changes, which were largely permanent.

However, as it considers the individual tax code, Congress may also consider elements of the corporate income tax code in the same legislative package, as there are current developments in international policy that may spur action. First, there are scheduled changes to some TCJA international provisions. Second, there have been significant developments in foreign countries' tax policies, most notably the global minimum tax agreement known as Pillar Two. Congress may wish to react to one or both developments.

International corporate tax policy is a wide-ranging subject, as it interacts with both US domestic corporate income tax policy and with the corporate tax policies of many other countries. Additionally, it shares common themes with tariffs and trade issues, or general diplomatic considerations. While these issues are important, this paper will touch on them only incidentally, and focus its scope primarily on the TCJA's main international rules, such as the tax on global intangible low-taxed income (GILTI), foreign-derived intangible income (FDII), and the Base Erosion and Anti-Abuse Tax (BEAT), or functional equivalents of those rules. These international rules were a significant improvement from prior policy, but they were imperfect even in 2017 and may deserve a rethink.

International corporate income taxes may be changed in 2025

There are three main reasons corporate international provisions may merit attention in coming tax legislation:

- There are scheduled tax rate increases to GILTI, FDII, and BEAT in 2026. Congress may consider whether it prefers to keep current policy or allow those changes to go through.
- Developments in other large economies, such as the European adoption of Pillar Two, may require a reaction. Higher taxes abroad reduce GILTI's revenue prospects. Furthermore, the US may consider harmonizing with some elements of Pillar Two, or retaliation against its more coercive elements.
- The US international system had some design flaws even in 2017 that have become clearer over time; Congress can consider rectifying them.

The scheduled changes for 2026 to GILTI, FDII, and BEAT are products of US Senate rules governing deficit spending. In order to make the TCJA's corporate provisions permanent under the Senate's Byrd Rule, Congress in 2017 needed to ensure that years beyond the 10-year "budget window" would be revenue-neutral. TCJA accomplished this on the corporate side by building in some scheduled tightening of corporate provisions, including international, while leaving the problem unsolved on the individual side.

In 2026, the top rates on GILTI and FDII will rise from 13.125 percent to roughly 16.4 percent.[1] The BEAT rate will increase from 10 percent to 12.5 percent and BEAT will effectively disallow more US tax credits from its tax base.[2] These provisions will be discussed in greater detail further on, but there is a good case for mitigating each of these tax increases.

International circumstances have also changed considerably since TCJA was passed. One such development has been the Organisation for Economic Co-operation and Development (OECD) project on Base Erosion and Profit Shifting (BEPS).[3] The project was ongoing at the time of the TCJA and it resulted in significant anti-tax avoidance directives (ATAD I and II) in the European Union (EU), which became law in 2016 and 2017, roughly contemporaneously with the TCJA.[4] OECD work has continued to the Pillar Two global minimum tax agreement, which seeks to establish a worldwide minimum 15 percent rate on corporate income, spurring many countries—especially in Europe—to increase their tax rates to at least the 15 percent threshold.

Though President Trump has stated that Pillar Two is not law in the US, and Congress has not passed any laws to comply with Pillar Two, the agreement has effects on the US nonetheless.[5] Changes in European policy interact with US policy, for example, by increasing the value of foreign tax credits taken against GILTI and reducing GILTI's revenue. That interaction may therefore change how Congress perceives US policy and lead it to decide that 2017's choices are not necessarily optimal for 2025.

In addition to spurring some indirect interactions with the US tax code, the Pillar Two agreement may demand change to US policy and even employ a coercive element known as the undertaxed profits rule (UTPR) to spur that change. Congress will need to consider its response to those demands, either by complying with them, retaliating against them, or negotiating them further. The White House's statements have indicated that President Trump prefers retaliation against the UTPR, and introduced legislation by the Ways and Means Committee Chairman Jason Smith (R-MO) would offer the US more means to retaliate.[6]

1 Joint Committee on Taxation, "Overview of the Taxation of Global Intangible Low-Taxed Income and Foreign-Derived Intangible Income: Sections 250 and 951A", May 2019, https://www.jct.gov/getattachment/7465e361-06a9-4abf-95a1-a31a4c2361b3/Overview-of-the-Taxation-of-Global-Intangible-LowTaxed-Income-and-ForeignDerived-Intangible-Income-Sections-250-and-951A.pdf.

2 Joint Committee on Taxation, "Overview of the Base Erosion and Anti-Abuse Tax: Section 59A," April 2019, https://www.jct.gov/getattachment/d35821ce-ed13-42c0-8546-41d093cebde9/Beat-Section-59A.PDF.

3 Alan Cole, "The Impact of BEPS 1.0," Tax Foundation, April 2024, https://taxfoundation.org/research/all/global/beps-international-corporate-taxation/.

4 European Union, "Council Directive 2016/1164, laying down rules against tax avoidance practices that directly affect the functioning of the internal market," July 12, 2016, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016L1164; European Union, "Council Directive 2017/952, amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries," May 29, 2017, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2017.144.01.0001.01.ENG.

5 The White House, "The Organization for Economic Co-operation and Development Global Tax Deal, Jan. 20, 2025, https://www.whitehouse.gov/presidential-actions/2025/01/the-organization-for-economic-co-operation-and-development-oecd-global-tax-deal-global-tax-deal/; Alan Cole, "Five Things to Know About Trump's Global Minimum Tax Order," Tax Foundation, Jan. 22, 2025, https://taxfoundation.org/blog/trump-global-minimum-tax-order/.

6 Chairman Jason Smith, "Ways and Means Republicans Introduce Legislation to Reinforce Trump Administration's Rejection of Biden Global Tax Surrender," U.S. House Ways and Means Committee, Jan. 22, 2025, https://waysandmeans.house.gov/2025/01/22/ways-and-means-republicans-introduce-legislation-to-reinforce-trump-administrations-rejection-of-biden-global-tax-surrender/.

Finally, Congress would be wise to reconsider some elements of its international tax system simply because they have not worked as intended or are otherwise counterproductive. BEAT seems poorly targeted at its intended goal of curbing base erosion. GILTI contains some complex provisions that need a second look, like expense allocation, which harms US R&D spending. Even absent any scheduled changes to tax rates or to the international scene, some items simply deserve reform; these provisions will be discussed more further on.

Given these circumstances, there is a considerable chance of tax legislation in the 119th Congress, and good reason to reexamine international corporate income tax provisions as a component of that legislation.

There are substantial challenges in international corporate income tax policy

International corporate income taxes are among the most difficult taxes to administer or comply with, because of the complexity of multiple jurisdictions, difficulties in apportioning income among them, and misaligned incentives between different taxpayers and tax collectors.

Globalization, specialization, and technology have contributed greatly to economic growth in the US and around the world. The world economy today has supply chains that stretch across many borders, with different workers in different countries contributing to a single product. In addition to tradable goods, there are some "intangible" elements like software, information, or consumer brands, which have no corporeal presence, existing instead on the internet or in people's minds. Large multinational enterprises (MNEs) that use scale, specialization, and intangible elements to the fullest are often extraordinarily productive and valuable.

These trends are worthwhile for growth but create challenges for tax policy; many jurisdictions have many sets of rules that apply to a single company, or even, a single product made by that company. In theory, at least, corporate income taxes might neatly divvy up the incremental revenues and expenses associated with each jurisdiction, and have the enterprise pay corporate income taxes to each jurisdiction on only its associated income. In practice, it is impossible to objectively apportion corporate income between jurisdictions.

One problem in apportioning corporate income is that the two most fundamental elements of income arithmetic—that is, revenue and expenses—are not readily available at a jurisdiction level, or at least, not in the traditional way that a tax system might operate for domestic firms. Usually, revenue and expenses are recorded using data from actual market transactions. But there are no market transactions between parts of the MNE. MNEs can be required by law to simulate the equivalent of an arm's-length market transaction with "transfer pricing," an accounting or tax practice that attempts to value these within-MNE transactions. But the same sets of shareholders are on both sides of the transaction, so there is no pecuniary incentive to get the number right, if it is even possible for a proprietary and unfinished product.

Another problem for corporate income apportionment is much of the value added in the production process comes from intangibles like software, which do not have a "location" in a traditional sense. While there may be a patent located in a particular jurisdiction and receiving royalties, the ideas underlying the patent may have come from another jurisdiction, or with nebulous and partial contributions from contributors in several jurisdictions. For example, consider a web application created by a team with software engineers in San Jose, Warsaw, and Mumbai. There is no guarantee the distribution of patent royalties among jurisdictions reflects the underlying economic substance of where the ideas were created, if such a thing is even possible.

The problems with apportionment of corporate income are exacerbated by the fact that different parties have different incentives. MNEs typically would prefer their income to be in jurisdictions with lower taxes. As a result, they have an incentive to overstate revenue and understate expenses in those jurisdictions. Conversely, they may attempt to understate revenue and overstate expenses in high-tax jurisdictions. A MNE that achieves these aims is said to be "profit shifting."[7]

Jurisdictions themselves prefer to attract taxable income, or at least, not lose it to other jurisdictions through profit shifting. And diverse jurisdictions approach this system differently from each other.

Very small open economies often benefit from offering very low tax rates, with the hopes of attracting global corporate income that does not necessarily reflect the economic substance produced there. These very low tax rates can raise substantial revenue because the tax base the policies attract is enormous relative to the small size of the domestic economy.

Larger developed countries with a substantial domestic sector may want to maintain higher corporate income tax rates and protect that tax base from profit shifting. But even among larger developed countries, there are big differences between the United States (US) and other jurisdictions, mostly owing to the size of the US economy and its outsized role in producing the largest MNEs.

Overall, economic trends have made global corporate income difficult to define and apportion, even if everyone involved in the system were fully cooperating. But different actors within the system have different incentives, and these incentives are strong enough to manifest costly conflicts regardless of what laws countries attempt to adopt. Any solutions proposed here or elsewhere will be muddled compromises at best and often entail substantial compliance costs.

7 Elke Asen, "What We Know: Reviewing the Academic Literature on Profit Shifting," *Tax Notes Federal* 171:8 (May 24, 2021), 1211, https://files.taxfoundation.org/20210621154304/What-We-Know-Reviewing-the-Academic-Literature-on-Profit-Shifting-TN-Fed.pdf.

There are three types of international corporate income tax

International corporate income tax rules can often be divided into roughly three types, and an understanding of these types is useful for understanding GILTI, BEAT, and FDII, which each target different types of international income.

- **Source-based ("territorial")**

Under source-based or "territorial" corporate income tax systems, corporate profits are counted where goods and services are produced. This is generally the dominant type of corporate income tax worldwide. One reason for the dominance of source-based income taxes is that they are a primary taxing right—that is, they get assessed first, before any residence-based or worldwide taxes are assessed. The main US corporate income tax, for example, is a source-based tax, and FDII operates under source-based principles. The required domestic minimum tax under Pillar Two is also source-based.

- **Residence-based ("worldwide")**

Under residence-based or "worldwide" corporate income tax systems, corporate profits are counted to a MNE's home country: effectively, to what country does the company belong? Residence-based taxes typically credit source-based taxes, resulting in a smaller secondary taxing right. The US tax on GILTI is worldwide, as are rules governing controlled foreign corporations (CFC rules), and other US provisions like Subpart F. In the Pillar Two system, an income inclusion rule (IIR) is a residence-based tax that enforces Pillar Two's minimum abroad on a country-by-country basis for companies headquartered in the Pillar Two country.

- **Destination-based**

Under destination-based tax systems, corporate profits are counted where goods and services are sold; effectively, the tax goes where the customer is. Destination bases are much more common in consumption taxes, such as value-added taxes (VATs) or sales taxes, rather than corporate income taxes. However, some systems that disallow deductions to firms abroad (for example, BEAT or the UTPR) effectively hew to some destination-based principles. US states with corporate income taxes use sales for apportionment, or as part of a formula that includes other factors.[8] More robust destination-based corporate income tax systems have been proposed as well, but not enacted: for example, the destination-based cash flow tax proposal that was considered and ultimately rejected in the 2017 tax reform cycle,[9] or the stalled Pillar One effort.[10]

8 Tax Foundation, "Apportionment," https://taxfoundation.org/taxedu/glossary/apportionment/.
9 Kyle Pomerleau and Stephen J. Entin, "The House GOP's Destination-Based Cash Flow Tax, Explained," Tax Foundation, June 30, 2016, https://taxfoundation.org/blog/destination-based-cash-flow-tax-explained/.
10 Tax Foundation, "OECD Pillar One," https://taxfoundation.org/taxedu/glossary/oecd-pillar-1/.

Each of these systems has drawbacks. Territorial systems do not tax income that has shifted out of the jurisdiction. Residence-based systems can encourage companies to try to revoke their residence and disadvantage resident companies in international competition.[11] Destination-based systems may inflame trade tensions.

Many countries use some residence or destination principles to bolster their source-based system against profit shifting.[12] The US TCJA uses a hybrid system with all three types.[13] And the Pillar Two system, in part drawing inspiration from the US system, also uses all three types.

Each component serves a legitimate purpose; for example, denial of deductions or other destination-based rules might be one way to increase the tax burden of a company that is engaged in profit shifting and is not a resident. However, these overlapping components come at the cost of considerable complexity.

GILTI, FDII, and BEAT are the major international TCJA provisions

The current US international tax system, a hybrid of several tax designs, is driven heavily by the major TCJA tax provisions GILTI, FDII, and BEAT.

The TCJA overhauled the US approach to taxing multinational companies. Prior to 2017, the US had a worldwide or residence-based system (with deferral) that taxed foreign profits upon repatriation at a high 35 percent rate, which encouraged firms to keep earnings offshore.

TCJA moved toward a territorial or source-based system—exempting most foreign dividends with a provision called a participation exemption—but paired it with new anti-abuse measures to prevent profit shifting to low-tax countries. Three key international provisions were introduced: GILTI, FDII, and BEAT. These were designed to balance competing objectives—protecting the US tax base from erosion while keeping US firms competitive and making the US an attractive place to invest.

GILTI partially walks back the territoriality of TCJA by establishing a category of foreign income to which tax is applied. However, aspects of GILTI's design aim it at high-return low-tax income from intangible assets held abroad by US companies—in other words, the income most likely to be associated with profit shifting—rather than general investment abroad by US MNEs.

- GILTI excludes income that represents a return on tangible investment. This tangible investment is called qualified business asset investment (QBAI) and only a return above 10 percent of QBAI is taxed. Effectively, a business earning a low-margin return on real investment is not taxed by GILTI, tilting the GILTI tax base towards high-margin returns and intangible income.

11 Kyle Pomerleau, "Inversions under the New Tax Law," Tax Foundation, Mar. 13, 2018, https://taxfoundation.org/blog/inversions-new-tax-law/.
12 Daniel Bunn, Alan Cole, and Alex Mengden, "Anti-Avoidance Policies in a Pillar Two World," Tax Foundation, Oct. 17, 2023, https://taxfoundation.org/research/all/global/base-erosion-profit-shifting-pillar-two/.
13 Kyle Pomerleau, "A Hybrid Approach: The Treatment of Foreign Profits under the Tax Cuts and Jobs Act," Tax Foundation, May 2018, https://files.taxfoundation.org/20180502205047/Tax-Foundation-FF586.pdf.

- GILTI has a partial crediting of foreign taxes paid. In so doing, it effectively taxes MNEs more if they have low tax rates, or less if they have high tax rates. In accounting for foreign jurisdictions, GILTI combines or "blends" them, rather than doing calculations on a country-by-country basis.
- The GILTI calculation also requires the allocation of some domestic expenses to international income. As expenses are subtracted from revenues to make income, expense allocation effectively results in a "shift" of net income from subsidiaries to the domestic tax base.

Ultimately, 50 percent of GILTI is included in the US tax base, which effectively halves the impact of any statutory rate. Therefore, before any adjustments, the GILTI rate is half the domestic rate, or 10.5 percent.

But the partial crediting of foreign taxes results in a range of top GILTI rates. Income in very low-tax jurisdictions can face a rate as low as 10.5 percent, while income in high-tax jurisdictions for MNEs with "excess" foreign tax credits faces an effective rate of 13.125 percent. In 2026, the amount of GILTI inclusion in the tax base will increase to 62.5 percent, resulting in a GILTI tax rate in the 13.125 percent to 16.4 percent range.[14]

FDII provisions operate together with GILTI. FDII is a category of domestic income similar to GILTI in that it crosses international borders, it has the QBAI exemption, and it has matching tax rates. FDII, as the adjective "foreign-derived" implies, is a provision applying to export income. As intangible income, it has a similar QBAI calculation to GILTI. And much like GILTI it is in the US corporate income tax base at a reduced inclusion amount. For FDII, this amount is 62.5 percent currently, but scheduled to rise to 78.125 percent. These numbers result in a 13.125 percent effective rate on FDII that rises to 16.4 percent in 2026, matching the top of the GILTI range. The idea of these two provisions in tandem is roughly that corporations with income abroad partially attributable to intangibles should not gain advantage by placing those intangibles offshore. If the FDII rate is equal to the GILTI rate, the reasoning goes, corporations might as well park their intellectual property in the US.

BEAT is a kind of minimum tax levied on MNEs that make substantial use of certain categories of payments to foreign subsidiaries—categories thought to be associated with profit shifting. A deductible payment in the US to a subsidiary abroad effectively "shifts" income to that subsidiary. While many payments are legitimate compensation for goods and services created by the subsidiary, certain payments—like royalties, services, rents, and interest—are sometimes used in ways that do not reflect economic substance. BEAT calculates taxes in an alternative way absent these payments, and taxes corporations whose burden by this alternative calculation falls below 10 percent. The BEAT threshold is scheduled to rise to 12.5 percent in 2026.

14 Daniel Bunn, "U.S. Cross-border Tax Reform and the Cautionary Tale of GILTI," Tax Foundation, Feb. 17, 2021, https://taxfoundation.org/research/all/federal/gilti-us-cross-border-tax-reform/.

Unique US characteristics affect its role in global tax policy

The US is the world's largest rich economy. This property, among others, gives it a unique role in the international tax landscape.

Most importantly, the United States produces an extremely outsized number of the world's most valuable MNEs, even relative to its size. For example, of the 10 most valuable publicly traded corporations in the world in recent years, nine have been American, with the sole exception of Taiwan Semiconductor Manufacturing Company.

The US Treasury has significant leverage over corporations, much more than revenue services for other countries, because access to the US domestic market is extremely valuable for global companies.

The US is also less economically integrated with other countries' economies, because its domestic market is so large and because it is separated from many peer economies by ocean. It is therefore comparatively difficult for businesses to shift real activities out of the US for tax purposes. The US is functionally less sensitive to certain kinds of profit shifting than small European countries are.

These unique characteristics give the US some policy lessons that may not apply for other countries.

Most importantly, the US has less incentive to support other governments' efforts to tax valuable MNEs, and is likely to see more costs and fewer benefits from the Pillar Two agreement. The US is somewhat less vulnerable to profit shifting than a smaller open economy, so the benefits of stemming a so-called "race to the bottom" are less valuable to the US Treasury than to smaller economies with many close neighbors. Furthermore, its citizens are disproportionate shareholders. Finally, it is more likely to have secondary taxing rights on corporations. So it has more tax revenue to gain from relatively low source-based taxes abroad, and more tax revenue to lose from higher source-based taxes abroad.

US international tax policy should be competitive

To evaluate different international corporate income tax policies, one must establish first the objectives against which those policies should be measured. In general, tax policy should minimize harm to economic growth, raise revenue, and avoid complexity. International tax policy should achieve the same objectives, but the details are often idiosyncratic and different from the details of domestic policy. Furthermore, the difficulties inherent to international tax policy, described above, make it impossible to fulfill these goals completely, or even well; instead, there are substantial trade-offs between them and most tax policies will have significant flaws.

First, the growth considerations for international tax policy fall into two main categories:[15]

- The US should be an attractive place for real investment, both by US companies and by foreign companies.
- The US tax code should make US companies competitive in their work abroad.

The US should make itself an attractive place for investment because capital and labor are complementary. The more capital, like property, plant, and equipment, is invested in the US, the more productive US workers are using that capital. This in turn makes corporations more eager to hire workers, and willing to raise wages. Put another way, investment boosts US net income, for which US workers have historically bargained for a majority.[16]

The US benefits most when it has ample US saving, management, and research and development (R&D) skill, enabling it to pair US workers with homegrown US shareholders, leadership, and ideas to create a strong business. But US savings and know-how are finite. Investment by foreign companies can help workers by bringing in considerable complementary knowledge and capital from advanced economies like Germany and Japan. Under the comparatively rare but nonetheless real circumstances where another country has developed substantial expertise superior to US alternatives, US workers should be offered the opportunity to work for them, raising their productivity and wages.

US tax policy should therefore attempt to attract investment from both domestic and foreign businesses, by offering competitive domestic rates on its source-based taxes, and policies like permanent expensing of capital investments for both domestic and foreign firms.[17]

The converse of foreign investment into the US is US investment into foreign countries. Both the former and the latter are beneficial for both parties, and the US should foster the competitiveness of US companies abroad. It is not merely for bragging rights. Work by US firms abroad improves the economic prospects of Americans at home.[18] Investments abroad are generally complements to American work, not substitutes for it. Investments abroad by US MNEs help stretch the value of US R&D and organizational know-how further by increasing the scope of US-headquartered operations. They open new export markets for US goods, services, and intellectual property. And they help return profits to US shareholders.

For example, a US-headquartered technology company that runs an online marketplace can be profitable and create good jobs for American workers. However, to give Asian customers access to that online marketplace at an acceptable latency, it would need to make physical investments into Asian data centers. A high-tech US manufacturer that sells heavy, specialized industrial equipment that cannot realistically be shipped long distances after assembly might need to employ local service technicians on several continents to repair customers' equipment. And a US retailer or restauranteur simply must locate its physical

15 Daniel Bunn, "Written Testimony before the U.S. Senate Committee on Finance," Tax Foundation, May 11, 2023, https://www.finance.senate.gov/imo/media/doc/Bunn_Written_Testimony.pdf.
16 Erica York, "Labor Share of Net Income is Within its Historical Range," Tax Foundation, Sept. 27, 2023, https://taxfoundation.org/blog/labor-share-net-income-within-historical-range/.
17 Erica York and Alex Muresianu, "Expensing: It Pays to be Permanent," Tax Foundation, Jan. 28, 2025, https://taxfoundation.org/blog/permanent-bonus-depreciation-expensing-options/.
18 Mihir A. Desai, C. Fritz Foley, and James R. Hines Jr., "Foreign Direct Investment and Domestic Economic Activity," National Bureau of Economic Research Working Paper 11717, Oct. 24, 2005, https://doi.org/10.3386/w11717; Mihir A. Desai, C. Fritz Foley, and James R. Hines Jr., "Foreign Direct Investment and the Domestic Capital Stock," *American Economic Review* 95:2 (May 2005), https://doi.org/10.1257/000282805774670185.

footprints where its customers are—but it would make the jobs in the US headquarters more important and lucrative. While political discussion of investment abroad often focuses on factories selling tradable manufactured goods, moving those factories overseas at the expense of American workers, the reality is most business investment abroad is done so as a component of American enterprise, not a replacement for it.

US tax policy, therefore, should not discourage US firms from investing abroad, either through CFC rules like GILTI or through any onerous restrictions on branches or other foreign investment.

While inbound foreign investments and outbound US investments are converses, in many respects opposites, it is not contradictory for them both to be good for the US. For example, gains from specialization make it beneficial for Americans to specialize in the executive management and design of one product, while Germans specialize in the executive management and design of another, while both countries consume both products and play some role in supporting the foreign business.

US international policy should protect the US tax base

The primary revenue-raising goal of US international tax policy is to protect from profit shifting, which is a considerable risk to the world's most valuable domestic corporate income tax base. In other words, the US should ensure it collects on the income that is genuinely substantively American.

By contrast, raising large amounts of revenue from real cross-border investment flows made in earnest is neither possible nor desirable.

To understand revenue-raising priorities, it is helpful to know the rough orders of magnitude of different US tax policies. The Congressional Budget Office (CBO) projects the US will raise roughly $68 trillion in revenue over the next 10 years, with the corporate income tax projected to raise roughly $4.8 trillion, less than a tenth of the total.[19] And then, of that corporate income tax, most is domestic; Tax Foundation projects that the entire GILTI regime accounts for less than a tenth of corporate income taxes, even at the higher rates of 2026, and GILTI revenue is at risk of declining from secondary effects of the European adoption of Pillar Two.[20]

Corporate income taxes are rarely a primary revenue raiser in any country, because workers earn most net income. The international portion of corporate income is usually small; even in the US, which has an unusual number of successful global MNEs, the domestic market is far larger. Instead, it should focus where the money is.

This does not imply no international rules at all: a domestic corporate income tax base can only be protected if international rules preclude egregious profit shifting. This almost necessarily involves some taxes on income that purports to be foreign-source. Such taxes should be structured as simply and carefully as possible.

19 Congressional Budget Office, "The Budget and Economic Outlook: 2025 to 2035," Jan. 17, 2025, https://www.cbo.gov/publication/60870.
20 Alan Cole and Cody Kallen, "Risks to the US Tax Base from Pillar Two," Tax Foundation, Aug. 30, 2023, https://taxfoundation.org/research/all/federal/global-minimum-tax-us-tax-base/; Joint Committee on Taxation, "Possible Effects of Adopting the OECD's Pillar Two, Both Worldwide and in the United States," June 2023, https://www.jct.gov/getattachment/07a143e4-277b-4344-b230-c499a9c16be3/OECD-Pillar-Two-Report-June-2023.pdf.

However, the need to stop profit shifting should not be considered carte blanche to unduly tax legitimate cross-border investment. This would not only be a poor source of revenue, but also economically undesirable. As described above, cross-border investment brings valuable gains from specialization and complementarity. The US should neither make policies like GILTI onerous on US firms' legitimate foreign investments, nor make policies like BEAT too onerous on investment into the United States by foreigners.

US international tax policy should be made simpler where possible

The final goal for a tax system is simplicity; international tax policies should be as easy as reasonably possible to enforce and to comply with. The reason these goals are desirable is that complex taxes require the time and energy of high-skilled workers in both government and the private sector, for enforcement and compliance respectively. The public would be better off if these workers were freed from their toils and released to work on more socially beneficial projects.

However, the substantial difficulties and needs of international tax policy make it certain the system will not be simple; dealing with multiple jurisdictions, transfer pricing, and the inherent flaws of any apportionment system is not something that can be done with a small handful of well-crafted rules. The result is that international tax burdens have outsized compliance costs relative to their small incremental additions in revenue. Tax Foundation survey of large MNEs showed they spent an average of $25.6 million apiece on compliance costs, and companies most commonly cited international rules as most responsible for increasing those costs.[21] Policymakers should attempt to reduce the costs of complexity where possible, even if they can never make this area of taxation truly simple.

Policymakers should also consider the low revenue totals raised in this area when they consider how many additional rules are worth making. International corporate income taxes have an unusually poor ratio of compliance or enforcement costs to revenue raised.

Corporate income taxes have many different backstops—from GILTI and BEAT to Subpart F to the US corporate alternative minimum tax (CAMT), plus foreign domestic corporate income taxes and foreign minimum taxes under Pillar Two. Many of these taxes credit each other or exist as partial alternatives to each other, requiring multiple layers of calculation for often minimal amounts of revenue at the margin. Most of the tax revenues would be raised under a single regime, and much of the rest could be raised under a single alternative minimum regime. Adding more beyond that is of little value and high cost.

21 William McBride, "Results of a Survey Measuring Business Tax Compliance Costs," Tax Foundation, Sept. 4, 2024, https://taxfoundation.org/research/all/federal/us-business-tax-compliance-costs-survey/.

GILTI, FDII, and BEAT have a mixed record on achieving US policy goals

GILTI, FDII, and BEAT are carefully considered policies crafted with an eye towards fostering US competitiveness, defending the US tax base, and limiting complexity to the extent possible.[22] Overall, the framework is likely to remain in some form, because it was a large improvement over the prior regime and each element plays a unique role. The US is likely to continue to see advantages in using partial worldwide taxation to handle potential profit shifting by US resident companies, as GILTI currently does. The US is likely to continue to offer incentives for placing intangibles in the United States, as FDII currently does. And the US will probably continue to use some destination-based elements and denials of deductions abroad, as BEAT or expense allocation currently do.

Although the framework's broad elements are likely to remain, some of the drawbacks of the specific implementation have become clear with time and the benefit of retrospect, and understanding of these drawbacks may inform the conversation on potential reforms. In general, the system remains complex.[23] And each of TCJA's main provisions has at least some undesirable impacts on incentives.

FDII attracts intangibles, but only with time and with policy stability. Some "legacy" profits may remain abroad and unable to take advantage of FDII.

FDII is mostly successful and likely needs the least tweaking of all TCJA policies. MNEs have returned intangibles to the United States, or at least, been less likely to shift intangibles elsewhere.[24] The enactment of FDII was followed by greatly increased multinational royalties paid to the United States, a trend especially visible in Irish trade data (which is a proxy for large MNE behavior, because optimal tax structures in recent decades routed significant income through Irish subsidiaries.) However, profit shifting or un-shifting is not instantaneous, and FDII is not necessarily capable of returning every prodigal intangible to the US. Some would effectively pay large "exit taxes" if they were ever moved, and as a result remain stuck abroad.[25]

FDII therefore needs time to work, slowly replacing legacy foreign-source intangibles with new US-source intangibles through gradual shifting of legacy intangibles and the creation of new ones. And a long-term policy like FDII needs stability to be effective. If FDII were at risk of elimination, corporations would be less willing to locate intangibles in the US. During the Biden administration, the US Treasury claimed to the OECD that FDII was in the process of being eliminated, even though Congress made no move to eliminate it.[26] Unnecessary threats to FDII (which is ultimately similar to "patent box" arrangements in other countries, and not outside of international norms) are likely harmful to US tax collections.

GILTI's expense allocation may be counterproductive or duplicative.

The expense allocation rules under GILTI—which effectively require companies with foreign profits and

22 Alan Cole, "The Impact of GILTI, FDII, and BEAT," Tax Foundation, Jan. 31, 2024, https://taxfoundation.org/research/all/federal/impact-gilti-fdii-beat/.
23 William McBride, "Results of a Survey Measuring Business Tax Compliance Costs."
24 Daniel Bunn, "Intellectual Property Came Back to the US After Tax Reform, but Proposals Could Change That," Tax Foundation, July 21, 2021, https://taxfoundation.org/blog/intellectual-property-tax-proposals/.
25 Alan Cole, "The Impact of GILTI, FDII, and BEAT."
26 Daniel Bunn, "Will FDII Stay or Will it Go?" Tax Foundation, Aug. 10, 2021, https://taxfoundation.org/blog/will-fdii-stay-will-go/.

certain US expenditures to apply more of those US expenditures to their foreign income for tax purposes—have an understandable rationale: expenses can be used to shift income out of the United States, so a requirement for allocation can help "un-shift" that income by pushing domestic deductions abroad.

However, two large expenses for which allocation is required are US research and development (R&D) costs and US interest deductions. Expense allocation for the former category is counterproductive to other US international tax policy goals, while expense allocation for the latter category is duplicative with other TCJA rules limiting interest deductibility.[27]

Expense allocation for US R&D activities effectively creates an extra cost for profitable global firms doing R&D in the United States. Rather than deducting the R&D against the US corporate income tax rate, some of the R&D expenditure is deducted from GILTI instead. This lowers the value of the effective deduction received, effectively raising taxes on the activity. This move may be penny-wise and pound-foolish for the US Treasury. While the Treasury benefits in the short run from offering stingier deductions, research and development activities ultimately create the intangible property that the Treasury wishes to attract into its tax base. In general, the US should aspire to be a global hub for R&D, both in terms of the valuable real economic activities, and in terms of the on-paper location of the intangibles.

The limitations on US interest deductibility created by expense allocation rules could simply be folded in with other US thin-capitalization rules, which are already quite robust by international standards.[28]

GILTI is unusually stingy on allowing taxpayers to smooth income over time; this and other flaws are mitigated somewhat by the ability to blend foreign jurisdictions together.

While GILTI allows ample blending or averaging of income across space, it does not allow much blending across time through carryforwards.

In much of income tax policy, it is thought that taxpayers earning equal amounts of income should be taxed equal amounts, regardless of how the income is distributed throughout filing periods. For example, consider a situation where one corporation has two $50-income years, while the other takes a $20 loss in one year and makes $120 in the other year. These companies have equal income over two years, and the choice of a one-year increment for tax filing is arbitrary. Many income tax systems allow the $20 loss to offset part of the $120, bringing both companies to an equal $100 in taxable income. However, GILTI provides only very limited ways of doing this, which could result in the business with the more uneven tax burden paying a higher rate.

This is a significant flaw, and potentially worthy of correction. However, it is mitigated significantly by blending of foreign jurisdictions. Many MNEs have a business model that includes losses in some years (usually while an investment is ramping up) and gains in others. Over the long run, these expenses and revenues even out, but the earnings for any given jurisdiction in any given year can be volatile. By allowing blending across space—if not time—GILTI partially corrects for this flaw.

27 Cody Kallen, "Expense Allocation: A Hidden Tax on Domestic Activities and Foreign Profits," Tax Foundation, Aug. 26, 2021, https://taxfoundation.org/blog/expense-allocation-rules-hidden-tax-foreign-profits/.
28 Garrett Watson and William McBride, "U.S. Businesses Face Growing Impact from Tightened Interest Deductions and Higher Interest Rates," Tax Foundation, Sept. 12, 2023, https://taxfoundation.org/blog/ebitda-us-business-interest-expense-limitation/.

A point that follows from this observation is that a move to country-by-country GILTI would exacerbate GILTI's flaws significantly, in addition to introducing more complexity.

GILTI's base may dwindle.

The GILTI tax base is likely to decline in importance over time with the adoption of Pillar Two abroad. GILTI is only a secondary taxing right, behind source-based systems in the foreign countries where US MNEs operate. If other jurisdictions work to raise their source-based taxes, GILTI loses revenues through added foreign tax credits.[29]

GILTI is not a tremendously important revenue source for the overall US fiscal picture. Instead, it should be judged primarily on whether it protects against profit shifting, as argued above. If Pillar Two results in other countries raising their tax rates to US levels, then profit shifting out of the US becomes somewhat less likely. So a scenario where the GILTI tax base decreases does not necessarily mean that GILTI has failed to do its job. However, US officials should be wary of encouraging other countries to raise their source-based income taxes through Pillar Two or other action, given the losses to the Treasury that such foreign tax increases would entail.

BEAT applies to payments that are not base erosion.

BEAT, despite its name, is in practice poorly targeted at base erosion. While the idea of a minimum tax targeted at suspicious cross-border tax profiles is a legitimate one, BEAT could be substantially better targeted than it currently is.[30]

- BEAT can tax payments to CFCs that are ultimately included in the US tax base through GILTI or Subpart F.
- BEAT does not consider the tax rates of the foreign jurisdictions to which payments are being made. As a result it can tax payments to high-tax countries, ones that could not be reasonably expected to be motivated by profit shifting and instead likely reflect economic substance.
- BEAT does not consider the substantive footprints of MNEs in the jurisdictions to which payments are made. For example, if a MNE has 20,000 employees in the United Kingdom because it acquired a British company, its outbound payments from the US to the UK are less likely to be the products of profit shifting than payments to a locale where the MNE has no footprint.
- BEAT also likely fails to capture many instances of base erosion; for example, if a corporation relabels base erosion payments as cost of goods sold or effectively makes base erosion payments through an intermediary.[31]

These flaws in BEAT are likely to become more acute with the scheduled rate increase.

29 Alan Cole and Cody Kallen, "Risks to the US Tax Base from Pillar Two"; Joint Committee on Taxation, "Possible Effects of Adopting the OECD's Pillar Two, Both Worldwide and in the United States."
30 Alan Cole, "How to Improve the Base Erosion and Anti-Abuse Tax," Tax Foundation, Apr. 23, 2024, https://taxfoundation.org/blog/base-erosion-anti-abuse-tax-beat-reforms/.
31 Stacie Kelley, Christina Lewellyn, Dan Lynch, and David Samuel, "'Just BEAT It' Do firms reclassify costs to avoid the base erosion and anti-abuse tax (BEAT) of the TCJA?" *Journal of Accounting & Economics* 77:2-3 (April-May 2024) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3784739.

BEAT is extraordinarily punitive on investment by foreign MNEs.

One particularly large problem with BEAT is its treatment of foreign firms that invest in the US. For them, it functions as a kind of narrow and unprincipled tariff that applies to high-value foreign firms that have chosen to integrate with the US economy, invest in the US, and employ US workers.

Because of BEAT's flaws above—particularly, the lack of consideration for tax rates or substantive investment in the jurisdiction to which the so-called base erosion payments are made—it can apply strongly to large economic trading partners of the US with moderate tax rates like Germany or Japan, not just small low-tax jurisdictions where intellectual property is housed.

For German or Japanese MNEs operating in the United States, payments to Germany or Japan for intellectual property or other components of the BEAT base are extremely likely to be large, but also reflective of economic substance. BEAT will disallow the deductibility of those payments anyway, functionally putting a tariff on the contributions of German engineers or Japanese scientists to products sold in the US.

Worse yet, this tariff does not apply equally to all firms. For example, consider a foreign company that makes no effort to integrate with the US or employ US workers. It simply puts its goods on ships to the US, and divests from any direct US business. This company's products would be purchased wholesale by US retailers and fully deducted as cost of goods sold. Only a foreign company that partially integrates with the US economy, and earns profit in the US, for example, by building a large manufacturing plant, gets penalized by BEAT, for partially including the US in its production process.

The US relationship with the Pillar Two agreement is a source of uncertainty best resolved with detente

The optimal path for US international tax policy depends partly on the US relationship with the Pillar Two agreement, or even, the fate of the Pillar Two agreement in general. Although the US is very unlikely to adopt all Pillar Two provisions, the US would at a minimum benefit from avoiding the UTPR. Additionally, the US GILTI tax base will interact with the tax systems of Pillar Two countries, and those of low-tax jurisdictions affected by Pillar Two.

Pillar Two is not particularly beneficial to the US.

While the Pillar Two agreement has the potential to curb some profit shifting from the US to low-tax jurisdictions, protecting some of the US tax base, it also has some major downsides:

- Higher source-based taxes on MNEs make for less GILTI revenue because GILTI is a secondary taxing right, and furthermore, they reduce income to US shareholders.[32]
- Tailoring a tax code to avoid UTPR effectively reduces the ability of the US Congress to design its own tax code with other considerations in mind.
- The added complexity of country-by-country calculations is significant.

32 Alan Cole and Cody Kallen, "Risks to the US Tax Base from Pillar Two"; Joint Committee on Taxation, "Possible Effects of Adopting the OECD's Pillar Two, Both Worldwide and in the United States."

Even beyond these downsides, elements of the Pillar Two agreement were not designed with US interests particularly in mind. In general, technical details of the agreement's rules have disfavored US tax provisions while blessing similar European provisions.

Consider R&D subsidies, for example: the US has a longstanding policy of using nonrefundable tax credits for research and development, rather than spending-side subsidies or refundable tax credits. For largely arbitrary reasons, nonrefundable tax credits are treated as reductions in tax rather than increases in income. This distinction matters greatly to the Pillar Two arithmetic, effectively magnifying the impact of some provisions by a factor of six relative to others.[33] While a line between increased income and reduced tax must be drawn somewhere to calculate tax rate, the Pillar Two agreement draws the line in a way that is unfavorable to the US. Paradoxically, the simplest change blessed by Pillar Two for the US would be to make the credits refundable and therefore more generous.

Similarly, the labeling of FDII as a harmful tax practice is also a line-drawing exercise that disfavors the US; several European countries retain patent box regimes relatively similar in effect to FDII.[34] The US approach to Pillar Two should primarily focus on mitigating harms like these by negotiating further exceptions.[35]

And for all the significant difficulties it imposes, it is not actually clear that Pillar Two will work. Refundable tax credits and other subsidies that count as increases in income may simply change the nature of tax competition rather than seriously reducing it; the world could simply end up with an opaque credit and subsidy competition for highly mobile income instead of today's competition over rates.[36]

The US largely complies with the spirit of the agreement.

The US is not actually a serious threat to the Pillar Two agreement, because it largely complies with the intended end goals of the project. The ostensible purpose of the agreement, to establish at least a 15 percent rate on corporate income, is a criterion that the US already meets by law. The US GILTI tax also has many properties of an IIR—and indeed, is somewhat more restrictive after expense allocation. The US incongruities with Pillar Two are largely based on arbitrary definitions, not an aggressive low-tax strategy.

The only large and genuinely substantive difference between the US tax code and Pillar Two is in the CFC rule design. GILTI allows a blended approach where all foreign income and taxes are summed into a single pool. A Pillar Two IIR has a country-by-country approach where each jurisdiction is tested separately.

The latter approach more forcefully targets low-tax countries and encourages them to raise their rates, while the former approach allows small amounts of low-tax income to blend with high-tax income and avoid significant top-up taxation.

The US could be a powerful enforcer for the Pillar Two agreement, if it were to adopt a Pillar Two IIR, but thus far the Pillar Two agreement has offered the US relatively little in return.

33 Alan Cole, "The Fatal Flaw of Pillar Two," Tax Foundation, Feb. 27, 2024, https://taxfoundation.org/blog/pillar-two-flaw/.
34 Izabella Sara and Alex Mengden, "Patent Box Regimes in Europe, 2024," Tax Foundation, July 16, 2024, https://taxfoundation.org/data/all/eu/patent-box-regimes-europe-2024/.
35 Alan Cole, "The US Should Demand More From the OECD Global Minimum Tax Deal," Bloomberg Tax, July 27, 2023, https://news.bloombergtax.com/tax-insights-and-commentary/the-us-should-demand-more-from-the-oecd-global-minimum-tax-deal.
36 Alan Cole, "The Fatal Flaw of Pillar Two."

The US has been able to extract concessions on Pillar Two before and should find a détente.

There is precedent for the US extracting concessions on Pillar Two. The July 2023 guidance on Pillar Two, for example, contained two provisions that seemed favorable to specific US priorities.[37] First, it delayed any application of the UTPR until after 2026 for countries with a tax rate above 20 percent—roughly, allowing the US to revisit Pillar Two compliance later by granting it a temporary reprieve. Second, it gave transferable tax credits like those of the Biden administration's Inflation Reduction Act favorable accounting as increases in income rather than reductions in tax.

The large size of the US, not to mention its legion of large corporations, gives it plenty of leverage in any negotiations. The UTPR should not be applied against valid US domestic tax provisions, and the US deserves recognition for adopting proto-Pillar Two CFC rules before Pillar Two existed. The US should, however, continue to work productively with OECD countries on combating more egregious forms of profit shifting. One starting point for a framework for US/OECD cooperation would be the Pillar Two framework as of 2020, which accepted GILTI as compatible and did not have the structure of the current UTPR.[38]

Modeling US international tax provisions involves considerable uncertainty

This report will attempt to model some potential changes to GILTI, FDII, and BEAT to inform debate on how they may be changed. We will consider two plans. One would be to align the US roughly with the Pillar Two agreement. The other would be to adopt a variety of competitive changes to the US tax code. These plans are chosen primarily for illustrative and didactic purposes, and to show the variety of international options possible. They are also limited to what Tax Foundation can model endogenously. Neither set of options necessarily represents the ideal tax code that Congress should adopt, but they are at least worthy of study. The Pillar Two-like plan, for example, is useful for understanding differences between the US and Pillar Two countries, even if US lawmakers have little interest in adopting Pillar Two.

This modeling exercise will involve a great deal of uncertainty, much more than is typical of tax policy modeling by Tax Foundation or other groups. The uncertainty owes to difficulties inherent in the subject area, which we will discuss more below. We will, however, publish these numbers in the spirit of offering the best information we can as important decisions are being made, while noting areas of particularly great uncertainty.

This modeling involves a complex and rapidly changing baseline.

Modeling tax policy provisions is an exercise in counterfactual thinking: the revenue numbers from tax policy research usually involve one scenario in which the tax policy is implemented, and one in which the tax policy is not implemented, and then they examine the difference between them.

37 Organisation for Economic Co-operation and Development, "Tax Challenges Arising from the Digitalisation of the Economy – Administrative Guidance on the Global Anti Base Erosion Model Rules (Pillar Two), July 2023," July 2023, https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/administrative-guidance-global-anti-base-erosion-rules-pillar-two-july-2023.pdf.

38 Organisation for Economic Co-operation and Development, "Tax Challenges Arising from Digitalisation – Report on Pillar Two Blueprint," Oct. 14, 2020, 19, https://www.oecd.org/en/publications/2020/10/tax-challenges-arising-from-digitalisation-report-on-pillar-two-blueprint_4c7eaa3d.html.

Although this sounds simple enough for the main policy in question, it is not simple to establish the background substrate in which the experiment takes place. What other policies—besides the one in question—are in effect, or not, as the policy in question is tested?

Some modeling uses a "current law" baseline, which assumes that all laws currently on the books are faithfully executed, including scheduled policy changes or expirations. A current law baseline in the US, for example, assumes the GILTI, FDII, and BEAT rates increase, and that the individual income tax side of the TCJA expires. Other modeling uses a "current policy" baseline, which assumes that all policies currently in place are extended indefinitely, even if they are scheduled to sunset or expire. Tax Foundation in general uses the current law baseline. Under either baseline, it is important to establish what the background policies are because they may interact with the policy being modeled.

Tax policy modeling is at its most precise when a proposed policy change is in an individual jurisdiction whose policies are otherwise mostly known and constant. This allows researchers to isolate the effects of the policy in question, use readily available data from the jurisdiction they are researching, and think in a ceteris paribus way.

In international corporate income tax policy, though, other jurisdictions matter significantly, and other jurisdictions may also be changing their policies in unforeseen ways. To establish a current law baseline for the rest of the world in its entirety (and be consistent with current-law baseline modeling in the US) a modeler would in principle need to have a knowledge of every scheduled policy change or expiration in every world jurisdiction that interacts with GILTI and other US international systems. In practice, this is unfeasible.

Worse yet, scheduled policy changes are ample, as the Pillar Two agreement has induced many countries to change their policies. Establishing a full model of each jurisdiction's regimes and integrating it with a model of the US tax code would be necessary to implement a kind of "current law" baseline for international policy. But this would require more resources than Tax Foundation—or, for that matter, any other known research organization, government or otherwise—can muster.

In practice, Tax Foundation research's built-in capabilities for foreign jurisdictions resemble a current policy baseline, and a dated one at that, even though this is suboptimal for some uses. We will note, as needed, where US provisions earn revenue that varies greatly with foreign taxes.

A further challenge is that arguably foreign jurisdictions should react dynamically to the US; a policy designed to, for example, aggressively target low-tax small countries would likely result in those countries changing their behaviors in the real world. However, a modeling assumption that involves dynamic policy changes is unprecedented; usually, the only policies being changed in a tax policy modeling scenario are the ones explicitly being researched.

One could make the case that low-tax small countries are much more like firms than like full-size jurisdictions, especially from the perspective of the US, and therefore modeling a dynamic reaction from them is valid. However, there is no precedent or standard among researchers for treating them that way, and it is unclear how this would be done transparently and intelligently.

Data availability is limited.

International tax policy modeling is limited by what data are available. There are several respects in which data are limited:

- **Foreign data may not exist or may not be harmonized in a manner conducive to modeling other jurisdictions at scale.** There are more than 200 tax jurisdictions, and many are reasonably relevant to understanding GILTI revenue. However, only a few sources exist that are collected in a harmonized way across all or most economies, and they do not contain all necessary data.
- **Data are not available at an individual-firm level for all varieties of revenue and expense.** Corporations have a wide variety of kinds of revenue—for example, they have revenue in different jurisdictions, or from tangible and intangible sources, and from a variety of structures like CFCs or branches. They also have a wide variety of kinds of expense; while labor and cost of goods sold are sometimes treated relatively simply, expenses like structures or research and development may be depreciated or amortized in different ways in different regimes, and expenses like interest may be limited or reallocated by thin capitalization rules or expense allocation. In practice, these distinctions matter for tax revenue, but the data necessary to treat different kinds of revenues and expenses differently in different jurisdictions would be so great as to be unfeasible to collect or use, even if a modeling research group had strong understanding of tax law in all jurisdictions.
- **Data for minimum tax regimes are often not collected or reported.** International corporate income taxes, especially, involve many different regimes that are applicable or potentially applicable to taxpayers. However, at any given time, only some of them are binding to a given taxpayer. Often the only data that are fully tested by the full attention of revenue collectors and taxpayers, or even reported at all, are those of the binding regimes that MNEs are paying in each year. This is acceptable from the perspective of a revenue collector concerned with receiving what it is due, but a researcher may be unable to know what a firm would pay in a counterfactual policy scenario where another regime was the binding one.

International corporations have many elasticities and behavioral responses.

The wide variety of revenue and expense types for international corporations, and the wide variety of real-world business decisions that international corporations can make, result in an extraordinarily large number of potential responses to policy change. MNEs can potentially shift income between jurisdictions, between accounting categories, or through time, through methods like transactions between related companies, tax-motivated relabeling of revenue or expenses, or the use of loss carryforwards or other timing-based tax decisions.

MNEs can also shift their real behaviors in many ways. They can substitute between labor and capital, or among jurisdictions, or between years. They can also choose to return capital to shareholders rather than reinvesting in labor or capital.

Overall, the diversity of tax-motivated responses available to MNEs is too large to even list, much less fully model. To the extent these responses are modeled, they each require assumptions about what corporations would do based on policies in different jurisdictions. But, as noted above, data on policies in different jurisdictions may itself be limited, and subject to rapid change because of the Pillar Two agreement.

There is a great diversity of MNE taxpayer types.

Most tax policy modeling involves grouping several taxpayers together. For one thing, it is computationally expensive to calculate a tax burden for each taxpayer individually. For another, taxpayer-by-taxpayer data is not typically published. Unfortunately, grouping taxpayers together for the purpose of analysis does not work well for MNEs.

MNEs have very different revenue and expense profiles and may find different parts of the tax regime to be effectively binding. This means that they cannot be grouped together for the purpose of analysis. For example, a MNE that is "excess credit"—that is, bound by the limitation on foreign tax credits under GILTI—has a different profile of potential gains or losses from policy than a corporation that is not excess credit. Grouping the two together for the purpose of analysis would be inappropriate, as this would result in a combined firm that is either excess credit or not excess credit, misrepresenting the actual tax situation of one of the members of the group.

Some rough groupings may be possible—for example, by industry or by country of ultimate parent entity or by tax credit situation or by foreign tax burden—but the number of permutations quickly becomes unfeasible.

Minimum taxes are notoriously difficult to evaluate.

International tax policy involves many minimum tax regimes. Further, it involves a kind of overlapping between jurisdictions that offer tax credits, which effectively replicates a minimum tax regime across two jurisdictions. Minimum taxes are particularly challenging to model.

- Minimum taxes are a kind of net figure: a tax regime does not "raise," at the margin, the product of its rate and tax base. Instead, it raises what its tax liability is over the next highest tax regime. Small changes to one element of a net figure can radically change the total. For example, consider a MNE that would owe $11 billion under the main tax regime, and $10 billion under a 15 percent alternative minimum rate. The net revenue of the 15 percent minimum tax regime is zero, because the corporation already pays more under its ordinary tax regime. But if the alternative minimum tax rate were changed to 18 percent, the alternative minimum liability would be $12 billion rather than $10 billion; the minimum tax would suddenly raise $1 billion in revenue after previously raising nothing. Put another way, for minimum taxes, the revenue raised per rate percentage point is not constant.
- Minimum taxes may result in unavailable data; a nonbinding tax regime's numbers may not be reported at all, and even if they are reported, there is no incentive for a MNE to optimize its structure for a nonbinding tax.

- Different firms may find themselves bound by a minimum tax regime at wildly different tax rates. For example, an IP-heavy foreign firm may find itself bound by BEAT under almost any circumstances, while a mostly domestic retailer may not be a BEAT taxpayer under any BEAT rate.
- Taxpayers can "indirectly" pay a minimum tax by changing their behavior under the tax regime that binds them. For example, they may choose not to take a deduction that is available to them because doing so would put them into a minimum tax's regime, at the margin, and therefore not be worthwhile. This is effectively revenue that is causally attributable to the minimum tax, but it is not remitted to the Treasury under the minimum tax.

BEAT is subject to especially large uncertainty.

Of all the international tax policies in the US, the one with the most modeling uncertainty may be BEAT. Before showing revenue estimates regarding BEAT, we will discuss the difficulties inherent in modeling this provision and how Tax Foundation differs from current Joint Committee on Taxation (JCT) estimates, and discuss some implications of this disagreement for tax policy analysis and for current legislative decisions.

In addition to being a minimum tax for which different MNEs have wildly different profiles, BEAT is unusually susceptible to relabeling behavior, and unusually likely to induce behavioral change. (At least arguably, its official purpose is to limit base erosion and abuse by incentivizing this change in behavior in the first place.)

At the surface level, BEAT collects very little direct revenue. For example, BEAT collections in 2018 were almost nonexistent, according to JCT, but the report suggests taxpayers "may have paid more tax under other provisions as a result of tax planning to reduce or eliminate BEAT liability."[39] In later years, JCT states that BEAT has collected under $2 billion of direct revenue per year, despite an increase in the rate.[40]

The tax planning under BEAT can be extensive: effectively, BEAT fully disallows some deductions. If BEAT is binding for a taxpayer that ordinarily takes a deduction or would be binding if they took a given deduction, they might get no value from taking it. Almost any alternate decision may be better, even if it increases tax liability under the main corporate income tax.

However, BEAT likely does not always collect the revenue it was intended to collect, even indirectly. As noted above, some MNEs may have options to relabel or restructure their base erosion payments outside of the US tax base without paying additional taxes.[41] For example, if it is justifiable to label an expense as either royalties or cost of goods sold, a firm may opt for the latter to eliminate BEAT liability.

39 Joint Committee on Taxation, "U.S. International Tax Policy: Overview and Analysis," Mar. 19, 2021, https://www.jct.gov/getattachment/a7e1e4e1-f225-434e-a58b-072208f11cff/x-16-21.pdf.
40 Joint Committee on Taxation, "Background and Analysis of the Taxation of income Earned by Multinational Enterprises," July 17, 2023, https://www.jct.gov/publications/2023/jcx-35r-23/.
41 David Kamin, David Gamage, Ari Glogower, Rebecca Kysar, Darien Shanske, Reuven AviYonah, Lily Batchelder, J. Clifton Fleming, Daniel Hemel, Mitchell Kane, David Miller, Daniel Shaviro, and Manoj Viswanathan, "The games they will play: Tax games, roadblocks, and glitches under the 2017 tax legislation," *Minnesota Law Review* 103 (2018): 1439–1521, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3089423.

Estimating these behaviors is difficult; there is no clear distinction between full avoidance of BEAT and full indirect payment of BEAT; there are also choices on a continuum between the two. For example, a taxpayer may decide to partially avert a dollar of BEAT by paying 50 cents of additional corporate income tax.

The net impact of BEAT, therefore, is greater than the direct revenue it collects, but less than the hypothetical revenue that it would have collected if companies did not change their behavior at all.

A Tax Foundation attempt to model BEAT endogenously given the data it has available finds that the latter number is high. Under the very unrealistic assumption that firms do not notice BEAT or make even the easiest decisions to avert it, the tax could raise as much as $863 billion over the next 10 years. At least on paper, the BEAT base could be very large, given that it includes services as well as mobile capital income like interest and royalties. However, this is an extreme upper bound. BEAT clearly does not raise that amount of revenue directly, and almost certainly does not raise that revenue indirectly either, as many companies have ample ways to reduce their BEAT liability. Tax Foundation applies a comparatively aggressive elasticity of taxable income of 5, meaning that deductions subject to BEAT rapidly disappear as the BEAT rate rises. However, this is an uncertain educated guess in an area where high-quality research is necessarily difficult.

Tax Foundation's BEAT estimate differs greatly from current JCT estimates.

After applying what would seem to be a high elasticity to BEAT taxable income, Tax Foundation finds that BEAT raises roughly $17 billion in 2025, and would raise $30 billion in 2026 if the scheduled rate increase is allowed to go into effect. This modeling is consistent with JCT's 2017 estimates of BEAT, but quite different from JCT's estimates today.

In 2017 as TCJA was in the process of becoming law, JCT estimated that BEAT would raise roughly $17 billion in 2025 and $22 billion in 2026, which is on the same order of magnitude as Tax Foundation's current estimate.[42] The 2017 JCT estimate also operated under baseline assumptions of a lower rate of nominal economic growth than has actually been experienced; the inflation of 2021-2023 and the speedy growth of all nominal aggregates, including corporate income, were not anticipated in 2017. This unexpected growth should make most taxes raise more nominal revenue than JCT's 2017-era expectations. All in all, Tax Foundation is fairly consistent with the original JCT score.

However, more recently, JCT has reduced its estimate for BEAT revenue (including implicit or indirect revenue) from 2017 estimates, perhaps because of the very low direct BEAT revenues. A recent CBO report suggests that JCT estimates the scheduled increase in the BEAT rate raises roughly $2 billion at the margin, not the $5 billion JCT estimated in 2017, and certainly not the $13 billion that Tax Foundation estimates.[43] At the margin, Tax Foundation modeling shows BEAT changes are roughly six times more impactful as JCT modeling does.

42 Joint Committee on Taxation, "Estimated Budget Effects of the Conference Agreement for H.R. 1, the Tax Cuts and Jobs Act," Dec. 18, 2017, https://www.jct.gov/publications/2017/jcx-67-17/.
43 Congressional Budget Office, "Budgetary Outcomes Under Alternative Assumptions About Spending and Revenues," May 8, 2024, https://www.cbo.gov/publication/60114.

The significant difference between Tax Foundation results and JCT results may spur some valid questions about how to use and interpret competing sources in tax modeling.

- **Why might JCT be more correct about BEAT revenue?** As a part of the government, JCT has access to more robust IRS data than Tax Foundation does, and this may be informing its approach in a helpful way. The direct revenue from BEAT is extremely low, which is at least circumstantial evidence that BEAT is not very impactful.
- **Why might Tax Foundation be more correct?** First, the theoretical BEAT base is very large, but MNEs have had many years now to adjust to BEAT. It is very difficult to pin down tax structures or decisions that exist only because of BEAT, and then undo those decisions if BEAT is repealed, or make more of them happen if the BEAT rate rises. Behavioral changes that are difficult to model often end up being underestimated. Second, Tax Foundation is in open conversation with a variety of tax practitioners. In general, and in our subjective experience, attention by tax practitioners paid to BEAT suggests its impact is significant.
- **Is inconsistency with JCT typical?** Tax Foundation and JCT match very closely on individual income taxes in the US, where data are clear and consistent, and the impact of minimum tax regimes is minimal at best. However, for the reasons enumerated above, BEAT is an extreme outlier in terms of how difficult it is to model, and how different the estimates from different researchers might be. Some income is definitely not subject to BEAT at the margin, and some income definitely is, but there is a great amount of income for which the marginal impact of BEAT is uncertain.
- **Should Tax Foundation revise assumptions to more closely match JCT output?** Tax Foundation and other non-government tax policy research organizations often find their work serves different purposes for different users. Sometimes users are interested in a discussion of the real-life impacts of different tax policies. Sometimes users are interested in predicting the future JCT score of tax policy that may be proposed one day, so they have a sense of how a provision might fit into a legislative package with a specific budget target. Tax Foundation's estimates for BEAT here primarily serve the first purpose, not the second. There is, of course, a tension between these two goals. Closely matching JCT is more immediately useful to legislators but adds little insight at the margin, while differing substantially from JCT may spark needed debate at the expense of utility to those trying to put together a legislative package to be scored by JCT.
- **Should the size of BEAT change how we evaluate it as a tax policy?** The possibility that BEAT raises more revenue than official estimates suggest comes with a flip side: this also indicates that the harms to taxpayers are greater. And BEAT has significant harms: it functions effectively like a tariff on foreign firms that invest in the US, and it hits a variety of non-base-erosion income, in spite of its stated purpose. In its current form it makes the US more hostile to many legitimate and valuable cross-border trade or investment interactions. The possibility that it is more impactful than expected, therefore, is not necessarily a welcome revelation if true.

Modeling US differences with Pillar Two

One plan modeled below aligns the US more closely with the Pillar Two agreement. While this set of policies is unlikely to be adopted, it is useful for educational purposes to show some of the differences between the US and Pillar Two, especially on CFC rule design. It is also useful to show some of the policy levers that can in principle be changed, and the rough magnitudes of Tax Foundation's revenue estimates for those levers, even if those estimates are subject to considerable uncertainty.

Pillar Two, it can be noted, is a minimum set of requirements. Nothing under Pillar Two would preclude, for instance, higher tax rates, but this set of results is geared towards the hypothetical of the US adopting the minimum provisions that Pillar Two requires.

Note that the revenue effects of each provision are provided against a current law baseline—that is, a counterfactual where all scheduled expirations or changes are to take effect. Further note that the ordering of the results in the table matter. For example, the revenue effects of a policy in the third row of a table are the incremental revenue effects of the policy in the third row conditional on the policies in the first and second row being implemented first, not the incremental effects of the policy in the third row alone.

The following policy changes would move the tax on GILTI to more closely resemble a Pillar Two IIR:

- **Change the substance exclusion from GILTI's QBAI to a Pillar Two substance-based income exclusion (SBIE).** Much like GILTI, an IIR has a substance exclusion because it is designed to primarily target high-margin low-substance intangible earnings. The IIR's SBIE has a greater focus on payroll and QBAI has a greater focus on tangible assets. However, on net the difference between these two is not too significant. Tangible assets and payroll usually go hand in hand. Furthermore, where substance is small and income is taxed at low rates (that is, in the countries where GILTI or an IIR is relevant) the marginal impact of changing from one substance exclusion to another is minimal.
- **Repeal expense allocation.** Expense allocation rules for GILTI make it significantly less generous than an IIR. Expense allocation effectively pushes some US deductions away from the main US tax base, where the US has a primary taxing right and the tax rate is 21 percent, to the GILTI tax base, where the US has just a secondary taxing right and the tax rate is lower. This provision greatly reduces the value of deductions, increasing firms' tax burdens. Removing it, therefore, reduces revenues.
- **Allow full foreign tax credit carryforwards.** An IIR is generous in the usage and timing of foreign tax credits, while GILTI is quite stingy on the same. This is another substantial revenue raiser to GILTI, by Tax Foundation estimates, but not necessarily desirable policy. The modeling below assumes FTC carryforwards begin accumulating in 2025 and are first used in 2026.
- **Give GILTI a clean 15 percent rate with full foreign tax creditability.** Current US tax policy results in a 10.5 to 13.125 percent tax rate on GILTI in 2025, but a 13.125 percent to 16.4 percent rate in 2026 and later. This unwieldy-looking range exists because of the partial creditability of foreign taxes. An IIR is simpler: the rate is 15 percent with full foreign tax crediting. On net, moving to the IIR's system would raise revenue for 2025, when the GILTI rate is lower, but very slightly reduce revenue from 2026 and onwards. The more generous foreign tax crediting of the IIR is slightly more important than the prospect of a lower rate. As more countries adopt Pillar Two taxes, the importance of the foreign tax credit will rise.

- **Adopt a country-by-country calculation.** Adopting country-by-country calculations is the major change necessary to make GILTI like an IIR, and it is one of the few areas in which the IIR is more restrictive, rather than less. Unfortunately, it is significantly costly in terms of compliance costs, and may exacerbate some of GILTI's flaws. Furthermore, and importantly, country-by-country calculations do not raise revenue if foreign jurisdictions respond and implement their own minimum taxes to collect the revenue themselves and avoid top-up. In the event the US adopted country-by-country calculations, minimum tax adoption would likely be swift, resulting in more generous foreign tax crediting. Revenues would eventually decline to zero.

Table 1. Revenue Effects of Adopting Selected IIR Provisions (Billions of Dollars)

Provision	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2025 - 2034
Adopt SBIE	$0.6	$1.0	$1.0	$1.1	$1.1	$1.1	$1.2	$1.2	$1.3	$1.2	$10.8
Repeal interest expense allocation	-$8.0	-$8.1	-$8.4	-$8.6	-$8.9	-$9.2	-$9.5	-$9.8	-$10.2	-$10.5	-$91.3
Repeal R&D expense allocation	-$5.2	-$5.3	-$5.4	-$5.6	-$5.7	-$5.9	-$6.1	-$6.2	-$6.5	-$6.7	-$58.6
Allow full foreign tax credit carryforwards	$0.0	-$8.0	-$10.9	-$13.1	-$14.7	-$16.2	-$17.5	-$18.7	-$19.7	-$20.9	-$139.6
15% GILTI with FTC	$11.1	$1.3	-$0.1	-$1.5	-$2.0	-$2.4	-$2.9	-$3.1	-$3.5	-$4.5	-$7.6*
Subtotal	**-$1.5**	**-$19.1**	**-$23.8**	**-$27.7**	**-$30.2**	**-$32.5**	**-$34.8**	**-$36.6**	**-$38.6**	**-$41.4**	**-$286.3**
Country-by-country calculation	$7.8	$8.2	$8.5	$8.4	$8.8	$9.2	$9.5	$10.1	$10.5	$10.3	$91.2*
Total	**$6.3**	**-$11.0**	**-$15.3**	**-$19.2**	**-$21.4**	**-$23.3**	**-$25.3**	**-$26.6**	**-$28.1**	**-$31.1**	**-$195.0**

Note: Provisions with * are likely to raise less revenue as Pillar Two minimum taxes are adopted. If Pillar Two achieves global adoption, a minimal IIR should raise no revenue at a 15 percent rate, as its effects will be entirely dominated by primary taxing rights.
Source: Tax Foundation General Equilibrium Model

Repealing BEAT: In addition to the changes to GILTI to make it an IIR, the US could further harmonize with Pillar Two by repealing BEAT (which Tax Foundation estimates would be roughly $314 billion in lost revenue, though JCT estimates are likely to be lower) and/or implementing a UTPR. A UTPR is not modeled here; however, as with the US adopting an IIR, it would likely spur other countries to act quickly and implement minimum taxes of their own in order to avoid UTPR. In the long run the UTPR's role is to enforce the agreement, not to collect revenue. If Pillar Two were to live up to its stated goals, BEAT would be less necessary as a base erosion measure, and its dubious or tariff-like elements would be even more salient.

Domestic Pillar Two Considerations: Finally, the US might harmonize with Pillar Two further in its domestic tax system, which is out of the scope of this paper. A Pillar Two-inspired domestic minimum tax would raise revenue, but largely by partially invalidating R&D credits duly passed into law by Congress. The US CAMT, despite its 15 percent rate and its name, does not comport with Pillar Two's minimum tax because the CAMT respects the US R&D credit.

Some of the changes above—particularly moving to country-by-country and reworking R&D credits—might entail significant administrative and compliance costs while offering minimal gains to the Treasury.

However, other changes make GILTI less onerous for taxpayers. Despite the overall reputation of the US as a country with lower taxes than its OECD peers, the US system is overall less generous when it comes to CFC rules. The US international reputation for lower taxes comes primarily from low consumption tax rates, not low income tax rates.[44] Pillar Two's rules, in some areas, outline a better tax base than the one the US currently has.

Modeling selected competitive US tax provisions

A second plan, one less focused on harmonization with Pillar Two, might instead opt towards competitive provisions and hope that differences with the Pillar Two agreement can be settled diplomatically.

These provisions are selected partially for their contributions towards competitiveness or complexity reduction and partially to create variety relative to the provisions already modeled above. The rates selected are also arbitrary; lower rates might make for greater competitiveness at the cost of revenue.

As with the previous plan modeled, the measurements are relative to a current law baseline and the results from each policy in each row of the table are conditional on any interaction effects with previous policies in previous rows of the table.

In the context of US tax reform, provisions may need to be offset with revenue raisers, and lawmakers should consider the distributional impact of policies. In general, the taxation of distributed profits, as shown in Tax Foundation's Growth and Opportunity plan, has fewer downsides than most international provisions discussed in this report, and has roughly the same distributional impact.[45]

Policies modeled here are:

- **Preserving the foreign tax credit limitations of current law GILTI, and setting GILTI to a 15 percent effective rate after considering the impact of the foreign tax credit haircut.** This puts GILTI in a 12 to 15 percent range, which is higher than current law for 2025 but lower than current law from 2026 and on.
- **Preserving the current rate for FDII**. This averts the scheduled FDII rate increase under TCJA.
- **Repeal of R&D expense allocation.** This is potentially the most counterproductive element of GILTI.
- **Preserving the current policy share of US R&D credit exempted from BEAT.** BEAT could deserve either repeal and replacement, or any number of reworks, but the treatment of US R&D credits under BEAT is an important issue worthy of consideration. Effectively, the calculation of the BEAT base will become less generous in a way that harms incentives to invest in intangibles in the US. This is potentially the greatest of many problems with BEAT.

44 Cecilia Perez Weigel and Daniel Bunn, "Sources of Government Revenue in the OECD, 2024 Update," Tax Foundation, Mar. 18, 2024, https://taxfoundation.org/data/all/global/oecd-tax-revenue-by-country-2024/.
45 William McBride, Huaqun Li, Garrett Watson, Alex Durante, Erica York, and Alex Muresianu, "A Tax Reform Plan for Growth and Opportunity: Details & Analysis," Tax Foundation, June 29, 2023, https://taxfoundation.org/research/all/federal/growth-opportunity-us-tax-reform-plan/.

Table 2. Revenue Effects of Selected Competitive tax Provisions (Billions of dollars)

Provision	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2025 – 2034
15% GILTI maximum rate	$6.0	-$5.3	-$5.4	-$5.2	-$5.4	-$5.6	-$5.9	-$6.3	-$6.6	-$6.5	-$46.1
Retain FDII current policy rate	$0.6	-$3.6	-$4.3	-$2.5	-$2.9	-$3.4	-$3.3	-$4.3	-$4.6	-$2.7	-$30.8
Repeal R&D expense allocation	-$6.0	-$6.6	-$6.6	-$6.6	-$6.7	-$6.9	-$7.1	-$7.4	-$7.8	-$8.1	-$69.6
Preserve R&D in BEAT calculation	$0.0	-$7.8	-$8.3	-$9.0	-$9.4	-$10.1	-$10.1	-$10.2	-$10.1	-$10.3	-$85.3
Total	**$0.7**	**-$23.2**	**-$24.5**	**-$23.4**	**-$24.4**	**-$25.9**	**-$26.4**	**-$28.1**	**-$29.0**	**-$27.5**	**-$231.7**

Source: Tax Foundation General Equilibrium Model

Notes on CAMT and potential repeal: The CAMT is only a partially international provision, but it is relevant here and may merit examination. Under the plan above, under Tax Foundation's modeling assumptions, CAMT would become binding on significantly more US MNEs, resulting in a parallel secondary international tax regime for corporations bound by CAMT provisions rather than GILTI, FDII, BEAT, and the domestic tax code. CAMT, we estimate, counteracts roughly $8.2 billion of tax cuts in the above package. That is, in the absence of CAMT, the same reforms would reduce revenues by $239.9 billion, not $231.7 billion as shown above.

A full repeal of CAMT under the above tax plan would reduce revenues by an additional $292.3 billion beyond the $231.7 billion shown above, bringing the total cost of the plan to $524.0 billion. The revenue amount for CAMT—which affects the much larger domestic tax base—is larger than all the international reforms put together. However, repeal of CAMT may be worthwhile for domestic reasons in addition to improving the effectiveness of these international reforms.[46] As noted before, though, the CAMT estimate, like all corporate and minimum tax-related estimates, is subject to considerable uncertainty.

CAMT revenue is uncertain because of its nature as a minimum tax. CAMT raises no revenue from many taxpayers but can quickly become the binding tax policy if a corporation takes advantage of provisions disallowed by CAMT. The differential between the two parallel systems is a net figure subject to considerable volatility. Therefore, it is difficult to know how much CAMT impacts other provisions at the margin. Indeed, it is difficult to know how much CAMT raises even under current law. Some credible research suggests CAMT is rarely binding under current law and raises less revenue than expected.[47] If this is the case, Tax Foundation modeling would overstate the extent to which this plan would be counteracted by CAMT, and overstate the cost of CAMT repeal.

Notes on FDII: A 13.125 percent effective FDII rate is potentially vulnerable to CAMT, as mentioned above, or to UTPR, by falling beneath the 15 percent global minimum. However, this potential problem may be less important than it appears at first glance: US MNEs usually have great amounts of income at 21 percent tax rates, so a single category with a sub-15 percent rate may not trigger CAMT or UTPR liability by itself.

46 Alex Muresianu and Erica York, "It Would Be a Mistake to Resurrect Corporate Alternative Minimum Tax," Tax Foundation, Aug. 4 2022, https://taxfoundation.org/blog/corporate-alternative-minimum-tax/.
47 Jennifer Blouin and Nathan Born, "The Corporate Alternative Minimum Tax: A Congressional Folly," *National Tax Journal* 77:2 (June 2024), 413-447, https://ideas.repec.org/a/ucp/nattax/doi10.1086-730211.html.

More important than any individual FDII-related policy is the promise of stability. A provision like FDII earns its keep if it is considered a trustworthy long-run incentive, and unlikely to be removed. If lawmakers decide that a simple 15 percent rate for FDII is less vulnerable to minimum taxes or political uncertainty, then such a policy would reduce revenues by just $10.5 billion rather than the $30.8 billion shown above for maintaining FDII at current rates.

Other Potential Reforms

Other provisions worth considering, but not included in this set:

- **Exemptions for high-tax countries or high-substance countries from BEAT** would improve US competitiveness, as would fixes to double taxation of BEAT deductions through Subpart F or GILTI. These are not modeled here but may be considered in future modeling exercises.
- **More generous carryforwards**, as modeled in the previous set of policies, would be consistent with principles of sound policy.

Given the US revenue situation, offsets, such as spending cuts or a more principled taxation of corporate distributed profits as described in other Tax Foundation work, are important to mitigate the major downside of these provisions, which is the revenue loss that they entail.

Conclusion: build on TCJA with steady and careful reforms

The current US system for international corporate income taxes under TCJA was a carefully considered international tax package, but it had some legitimate flaws. It also was designed for a pre-Pillar Two world that no longer exists. A careful update to TCJA's international provisions, if done well, could improve the realm of international taxation somewhat. Policymakers should look to increase competitiveness, protect the US tax base, and avert complexity.

However, genuinely good international tax policy is difficult to come by. The complexity of laws across multiple jurisdictions will always invite unwanted behavior and inefficiency, even in the best designed systems.

In general, FDII is most beneficial if preserved in the most durable form possible. GILTI and BEAT should be modified and improved to minimize damaging impacts on valuable cross-border investments, both inbound and outbound.

As taxes go, tax policies on international corporate income are among the least efficient and most complex. Other means of raising tax revenue from a similar distributional tranche are more effective; for example, through a distributed profits tax or even through individual taxes at the shareholder level.