Partisan fissures emerge over Treasury's position on corporate tax reallocation, global minimum tax

With the Biden administration linking its own recent proposals for corporate tax increases to the development of a new multilateral corporate tax framework, the first cracks have emerged in what to date has been a bipartisan congressional approach to the US's negotiations in ongoing talks among OECD and G20 member nations aimed at revamping the payment and allocation of international taxes.

As part of his newly released Made in America tax plan, President Biden has proposed to increase the US corporate tax rate to 28 percent, and both he and some key Senate Democrats have also proposed significantly increasing the rate on global intangible low-taxed income (GILTI), which some have described as a US minimum tax on income earned by US multinational corporations. (For details on the president's proposed tax changes, see *Tax News & Views*, Vol. 22, No. 19, Apr. 9, 2021.)
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/210409_1.html

At the same time, Treasury Secretary Janet Yellen has said the US would support the adoption of a global minimum corporate tax in order to reduce tax arbitrage and create a more level playing field – a position being negotiated with 139 countries through what is known as Pillar 2 of the OECD/G20 process. A global minimum tax could also reduce any competitive disadvantage US-domiciled companies might face from a higher US corporate tax rate.

On the heels of all this, it was reported April 8 that the US has offered a new plan meant to unblock a separate part of those multilateral negotiations, proposing that the world's 100 largest multinationals pay taxes to each country based on the market for their goods or services sales in each country. Treasury has not officially released a document, but the proposal shared with other countries' negotiators the week of April 5 has been circulated in the financial press. (For prior coverage, see *Tax News & Views*, Vol. 22, No. 19, Apr. 9, 2021.)
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/210416_2_suppA.pdf
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/210409_3.html

Taxwriting leaders weigh in

Senate Finance Committee Chairman Ron Wyden, D-Ore., one of the authors of a new Democratic framework for revamping the tax rules for US multinationals, has signaled his support for the Biden administration's positions, saying they have the potential to lead to enactment of "a global tax system that treats US companies fairly."
URL: https://www.finance.senate.gov/imo/media/doc/040121%20Overhauling%20International%20Taxation.pdf

"When looking at the total effects of both Pillar 1 and Pillar 2, Treasury's proposal could be the basis for a global deal," Wyden said in a statement April 9. "Importantly, this proposal could support necessary reforms to US tax laws, ensuring our multinational corporations are incentivized to invest in the United States and pay their fair share."
URL: https://www.finance.senate.gov/chairmans-news/wyden-statement-on-treasury-oecd-proposal

House Republican taxwriters, in contrast, sent Yellen a letter April 8 saying they were "very concerned" that her Pillar 2 negotiating position "will permit other countries to enact minimum taxes at rates lower than today's GILTI effective rate, while the Biden administration seeks to double the GILTI rate paid by US-headquartered companies." Ways and Means Committee Republicans, led by Rep. Kevin Brady of Texas, also asked Yellen to brief them on her Pillar 1 proposal and the administration's negotiating goals so they could understand "whether they align with what we see as an urgent need for a strong position in favor of the US tax base, workforce, and business community."
URL: https://gop-waysandmeans.house.gov/wp-content/uploads/2021/04/Letter-to-Sec.-Yellen-OECD-4.pdf

Republicans, who lowered the corporate tax rate and established the GILTI regime as part of the Tax Cuts and Jobs Act in 2017, have strongly opposed President Biden's new plan to roll back the tax cuts, increase the tax rate on GILTI, and make other international tax changes they view as harming the competitiveness of US companies.

The top Republican on the Senate Finance Committee, Sen. Mike Crapo of Idaho, released his own statement April 12 reserving judgement on Yellen's new Pillar 1 proposal but stating that he "will not support an OECD agreement that discriminates against US businesses, or adversely affects American jobs and investment."
URL: https://www.finance.senate.gov/ranking-members-news/crapo-statement-on-treasury-oecd-proposal

"Treasury's new proposed Pillar 1 approach will need to be evaluated based on its potential effects on US businesses and the United States' fiscal security," Crapo said.

Continued agreement on DSTs

Congressional tax leaders on both sides of the aisle fully agree that they want to see an end to the digital services taxes (DSTs) that a number of countries – especially in Europe – have enacted or proposed as a way of collecting more revenue from many high-tech companies. US negotiators during the Trump era insisted that such unilateral measures must be repealed as part of a global agreement, and the new Biden Treasury proposal similarly calls for a "standstill and rollback" approach and states that the US is seeking "a precise definition of 'relevant unilateral actions'" recommended for repeal in the most recent OECD blueprint.

Countries including Austria, France, India, Italy, Spain, Turkey, and the UK have implemented DSTs in the past two years – although some have delayed collection – and the Office of the US Trade Representative (USTR) has ruled that the taxes are discriminatory against US companies and subject to retaliatory tariffs. The Trump administration announced tariffs on certain imports from France, but these have been suspended while the Biden team investigates other DSTs and considers a coordinated response. USTR is currently receiving comments on tariffs it has proposed against the other six countries.

Wyden, Crapo, and House Republicans all argued in their recent statements that DSTs are counter to the goals of the multilateral talks and that countries must agree to withdraw them.

"Such moves by other countries would represent a tangible sign that they are serious about reaching an agreement," said Crapo, "particularly as the Biden administration proposes significant changes to US law based on the likelihood of a comprehensive OECD agreement and implementing actions by the countries involved."

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