

## Republican Ways and Means contingent takes Pillar Two criticisms to OECD leaders

Underscoring House Republicans' declarations that they do not intend to move towards implementation of the current Pillar Two international tax agreement, Ways and Means Committee Chairman Jason Smith, R-Mo., and seven other GOP members of the panel took their criticisms of the deal directly to European officials over the Labor Day weekend during meetings with leaders of the OECD and the French government in Paris, and with German officials in Berlin.

Smith, along with Reps. Ron Estes of Kansas, Randy Feenstra of Iowa, Kevin Hern of Oklahoma, Nicole Malliotakis of New York, Carol Miller of West Virginia, Greg Murphy of North Carolina, and Michelle Steel of California, delivered a message that although the Biden administration signed on to the 2021 global agreement creating a minimum tax for the world's largest businesses, Congress must write the tax laws to implement it—something the GOP taxwriters oppose as long as Pillar Two provides that the US's own GILTI regime is not considered compliant, certain US tax credits are disregarded for minimum tax purposes, and foreign countries are able to tax US businesses on profits earned in the US through an undertaxed profits rule (UTPR). The delegation also emphasized that they believe the Pillar Two system will provide “new opportunities for China and others to maneuver and exploit the rules.”

“We worry that the global tax system is headed for more, not fewer, disputes among countries,” Smith said in Paris during a meeting with OECD Director Mathias Cormann and the organization's economic officials. “And we are shocked at the extent to which the Biden administration has been willing to surrender the US tax base.”

### Threat to US tax base

Smith's latter point referred to estimates from the Joint Committee on Taxation (JCT) showing that enactment of Pillar Two could cost the US \$122 billion in lost revenue over the next decade if the rest of the world moves ahead and the US stays on the sidelines—and that even if the US does implement the agreement in 2025, the domestic loss could still be \$56.5 billion over the next decade. The JCT's estimates of the impact on US revenue are wide ranging and depend on which countries implement the new rules and how multinational corporations shift their profits in response to implementation. While most scenarios resulted in a net revenue loss for the US, the JCT also projects that if Pillar Two is enacted by only the roughly 45 countries that had already done so or had proposed legislation to do so at the time of the analysis, the US would gain \$224 billion over the next 10 years. (For prior coverage, see *Tax News & Views*, Vol. 24, No. 25, June 23, 2023.)

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Rep. Miller told officials during the OECD meeting that “the project has gotten out of control, and . . . the US tax base is becoming more of a golden egg to fund foreign governments.”

“I strongly urge that the OECD puts the brakes on rushing the negotiations and to ensure either the GILTI is grandfathered in or that the guidance around the UTPR is drastically scaled back and the US and our

companies will not become a source for foreign nations who have driven away competition and innovation through their own draconian domestic policies,” she stated.

### **‘Tax and trade countermeasures’ still on the table**

Chairman Smith, who has introduced one of the two proposals from House Republican taxwriters to retaliate against countries that implement a UTPR, added that “[i]f countries move forward with the UTPR surtax, we will continue to aggressively pursue tax and trade countermeasures. We won’t allow rogue foreign tax collectors to attack the US operations of US companies or harass US companies and workers operating in third-party countries.” (For details of the proposals, see *Tax News & Views*, Vol. 24, No. 19, May 26, 2023, and *Tax News & Views*, Vol. 24, No. 27, July 21, 2023.)

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Neither proposal is expected to become law in the current Congress; however they are likely to serve as markers for the direction in which Republicans intend to take tax policy should they win control of the House and Senate in the 2024 elections.

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