



Memorandum

To: Senate Committee on Finance Tax Reform Working Groups:
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From: Mark A. Weinberger, Global Chairman and CEO, EY
Chair, Tax and Fiscal Policy Committee, Business Roundtable

Date: April 15, 2015

Re: Business Roundtable's Submission to Senate Committee on Finance Tax Reform Working Groups

Business Roundtable appreciates this opportunity to submit comments to the Members of the Senate Finance Committee working groups on the need for tax reform.

Business Roundtable supports comprehensive tax reform for both individuals and businesses and, in particular, strongly urges Congress to undertake business tax reform with a determination to enact it this year. Business tax reform is essential to improving U.S. economic growth, which will result in higher wages and increased job creation in the United States.

Each year of delay has resulted in slower U.S. economic growth, stagnating wages, and fewer job opportunities for American workers. At the same time, our anti-competitive system has handed our trading partners an advantage in global markets. A recent [study commissioned by Business Roundtable](#) has shown that our current corporate tax rate and business tax system have disadvantaged U.S. companies in the global mergers and acquisitions marketplace. We can't afford to wait any longer.

Based on the knowledge and experience of Business Roundtable CEOs, this submission on tax reform focuses on the corporate income tax system and the changes needed to update the corporate income tax to allow American companies and their workers to be competitive in

markets both at home and abroad and to improve U.S. economic growth, which will result in higher wages and increased job creation in the United States.

It is a well-known fact that the U.S. corporate tax rate now is the highest among all industrialized countries. Our current rules for taxing foreign-earned income were enacted in the 1960s and reflect the realities of a different era — while nearly every other developed country has adopted modern international tax rules that help their companies compete in today's global marketplace. Together our high tax rate and antiquated international tax rules make the U.S. corporate tax system an outlier from the rest of the world, impeding the ability of American companies and their workers to compete successfully.

Reasons for reform

It has been nearly 30 years since the last comprehensive review of the U.S. tax system, which culminated in the Tax Reform Act of 1986. Since then, the economies of the United States and the world have changed in important ways. New technologies, emerging economies and falling trade barriers have significantly increased global cross-border investment and trade over this period, while increasing economic competition. At the same time, the U.S. tax code has become even more complex and burdensome for U.S. businesses and has failed to adapt to changes in the global economy.

The failure to reform and update the U.S. tax system has contributed to distortions in global competitiveness and slower economic growth. With the recent recession compounding the impacts of decades of stagnant wage growth, our nation cannot afford to continue to be held back by an out-of-date and inefficient tax system.

- **A more competitive corporate tax rate**

In the Tax Reform Act of 1986, Congress and the President recognized that the high U.S. corporate tax rate — a combined federal and state tax rate of 49.8 percent at the time — was hurting the competitiveness of the U.S. economy. Accordingly, the United States reduced the federal corporate tax rate from 46 percent to 34 percent, and the United States went from having one of the highest corporate tax rates among developed countries to one of the lowest.

Since that time, other countries have recognized a lower corporate rate will attract business investment and increase employment opportunities. In fact, 31 of 34 countries have reduced their corporate tax rates since 2000; the United States is one of only two OECD countries with a higher statutory corporate tax rate today than in 1988. The combined federal and state corporate tax rate in the United States is now 39.1 percent, 14.5 percentage points higher than the 24.6 percent average rate of other OECD countries. This high rate discourages domestic corporate investment and disadvantages American workers and their families.

A lower corporate tax rate would make the U.S. economy more internationally competitive, increase U.S. investment and result in increased wages and employment, and improve the efficiency of the tax system.

- **A modern, competitive international tax system**

Large and growing world markets present enormous opportunities for America's businesses and their workers. With 95 percent of the world's population and more than 80 percent of the world's purchasing power located outside the United States, growth at home requires successful engagement in world markets. With continuing rapid growth in developing countries expected over the next decade, the need for American companies to grow and sell abroad will increase, and competitive pressures will only intensify.

Unlike most OECD countries, the United States imposes a second layer of taxes on the business income earned in foreign countries by American companies. Under the U.S. worldwide system, U.S. tax is assessed on active business earnings when they are brought back to the United States as dividends, with a tax credit for foreign income taxes paid in the country where the income was earned. The U.S. system's second round of tax on foreign earnings is equal to the difference between the U.S. rate and the foreign rate on the remitted earnings. As a result, American companies are nearly alone in having to pay tax on their international income twice — once in the foreign country where the earnings arise and then again when the earnings are brought back to the United States.

The rest of the developed world has largely responded to the growing importance of cross-border investment by adopting territorial tax systems to strengthen, attract and retain the headquarters operations of multinational corporations. Under a territorial tax system, companies can compete on a level playing field with other companies in foreign markets and face no barriers to bringing their foreign earnings home to invest in their domestic economies. Reforming the U.S. international tax system to provide similar rules for American companies would enhance the global competitiveness of American-headquartered companies and strengthen the U.S. economy by permanently removing the tax barrier to returning foreign earnings to the United States for additional job-creating and wage-enhancing investments.

Reform of the U.S. international tax system should be accompanied by appropriate safeguards to protect America's tax base, consistent with the rules of our major trading partners. However, one must be careful that proposals intended to protect against a loss of the U.S. tax base are not so broad that they further undermine the ability of American companies to compete against foreign companies not encumbered by such restrictions. For example, proposals adding an additional layer of tax to income earned in countries with innovation boxes, tax incentives, or other competitive tax policies may simply disadvantage American companies competing in foreign markets. The "minimum tax" proposed in the President's FY 2016 Budget is an example of such an anti-competitive measure. The proposed tax would apply broadly to foreign income, without any test as to whether such income is related to U.S. activities. Such a tax is effectively a U.S. headquarters tax as it would apply only to U.S.-headquartered companies.

Anti-base erosion measures are also being considered and debated in a multi-lateral setting via the OECD's base erosion and profit shifting (BEPS) project. Business Roundtable supports efforts to provide clear and consistent rules for the taxation of cross-border business activities that reflect longstanding international agreements. The objective of such rules should be to promote cross-border trade and investment, not the erection of new barriers that lead to a reduction in these growth-enhancing activities. Any changes to the international tax regime recommended in the OECD project should at a minimum not disadvantage the interests of the U.S. economy, business, and workers. The United States should strictly scrutinize any changes to the existing international order that would impact U.S. interests.

Key components of corporate tax reform

Business Roundtable has adopted the following policies and principles that must be taken together to guide any tax reform efforts:

- **Setting the corporate tax rate at a competitive 25 percent.**
 - Offsetting the revenue loss of the corporate rate reduction will require base broadening such as elimination or modification of tax credits and deductions.
- **Adopting a modern international tax system** (“territorial-type” tax system) that ends the second layer of U.S. taxation of U.S. corporations’ active foreign earnings above and beyond foreign taxes paid. By permanently removing the barrier to returning foreign earnings to the United States, this would align the U.S. system with the tax systems of our major trading partners.
 - Reform of the U.S. international tax system should be accompanied by appropriate safeguards to protect America’s tax base, consistent with the rules of our major trading partners.

Business Roundtable supports corporate tax reform that is financed through broadening of the corporate income tax base and other corporate offsets. Given the need for the U.S. tax system to be competitive with the tax systems of our major competitors, all corporate revenues from base-broadening measures should be dedicated to building a modern, internationally competitive corporate tax code.

Principles for tax reform

Tax reform should promote U.S. economic growth and competitiveness. An [OECD report](#) found that the corporate income tax is the most harmful type of tax for economic growth and therefore tax reform should not result in a net increase in corporate income taxes. In considering the impact of tax reform on revenues, a realistic budget baseline should be used that

acknowledges that longstanding tax provisions extended repeatedly on a short-term basis are in reality a permanent feature of current law.

Tax reform should provide a simplified, efficient, and unbiased tax system. A simpler, more efficient tax system would allow our economy to produce more for any given amount of investment. A reformed tax code should not be biased for or against any particular segment of the business community.

Permanence. Tax reform should be permanent to support long-term business decisions and commitments that will allow for capital investment and consistent hiring of American workers.

In this regard, some have proposed funding new government spending with a one-time mandatory repatriation of foreign earnings at a reduced tax rate without a permanent reform of our international tax system. However, such a repatriation measure does not solve the ongoing competitive disadvantage faced by American companies in foreign markets, as future earnings would still be subject to additional U.S. tax upon repatriation. Only a permanent modernization of U.S. international tax rules can address both the competitive disadvantage faced by American companies and permanently eliminate the lockout effect. As such, Business Roundtable opposes using revenues from mandatory repatriation to increase spending, including funding for highway and infrastructure projects, outside of permanent tax reform.

Conclusion

Business Roundtable urges this Committee to enact tax reform this year. Our economy has waited too long already. Unless decisive action is taken this year, our anti-competitive tax system will continue to hinder the competitiveness of American companies and American workers. The Roundtable and its business leaders offer their assistance to this Committee and its staff in this goal.