Modeling Changes in U.S. International Tax Rules

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The U.S. international tax regime sometimes seems like sedimentary rock: a rule is enacted here, another enacted there, and eventually they fuse into a composite mass with no apparent structure. Perhaps as a result, we lack any commonly accepted way of thinking about how changes will affect the system as a whole. What effect will the new, misleadingly named tax on "global low-taxed intangible income" ("GILTI") have on corporate incentives? Is the repeal of the repatriation tax effected by the recent Tax Cuts and Jobs Act ("TCJA") likely to result in more U.S. investment? What consequences, if any, do these and other changes portend for incentives to engage in corporate inversions?

This paper sets forth a simple but potentially infinitely expandable model through which such issues can be explored. Its underlying premise should be noncontroversial – that, all else being equal, capital will seek the highest after-tax return. The question it poses is straightforward: Assume that our task is to aggregate funds from taxable U.S. or foreign individual shareholders and invest them in U.S. or foreign business operations through a U.S.-parented or foreign-parented multinational corporate group (multinational enterprise or "MNE"). What U.S. rate of tax will apply to income generated by those operations? Obviously, the answer will depend on, among other things, whether earnings are distributed currently and, in the case of the GILTI tax, the mix of assets deployed in offshore operations. Nevertheless, as will be seen, we can establish the endpoints of ranges of possibilities and draw useful policy implications from our results.

It is important to emphasize from the outset that what I am going to present is only a model, based on a set of simplifying assumptions. To those who object that the version presented here fails to take into account other countries' tax systems, my response is that the model can be expanded to do so. The purpose of this paper, however, is to explore the effects of the U.S. tax system itself on international capital flows, not the effects of other systems or their interactions with our own. To those who object to my simplifying assumptions, my response is similarly that the model can be adjusted to accommodate alternative assumptions. As will be seen, even the basic version presented here can provide useful insights into the likely effects of U.S. international tax rules.

Part I describes the proposed model, applying it to pre-TCJA U.S. law. The model suggests that pre-TCJA U.S. law created at least four major economic distortions: (1) a structural U.S.-law bias in favor of offshore operations, (2) incentives to shift income to foreign members of the same multinational group – in effect, to treat such income as income from offshore operations, (3) a structural U.S.-law bias in favor of foreign-parented MNEs, and (4) barriers to repatriating foreign profits to U.S. parents and their shareholders.

Part II then applies the model to post-TCJA U.S. law. It concludes that the structural bias in favor of offshore operations has been reduced but not eliminated. Opportunities and incentives to shift income to foreign corporate members have been significantly reduced for U.S.-parented groups, less so for foreign-parented groups – exacerbating the advantage U.S. law gives to foreign-parented MNEs. The pre-TCJA structural bias in favor of foreign-parented MNEs has been reduced in some contexts but increased in others – most importantly through enactment of the GILTI tax, which applies only to U.S.-parented MNEs. Finally, repeal of the repatriation tax has eliminated the pre-TCJA U.S. tax barrier to repatriation of foreign profits but, at the same time, made it more likely that capital will flee permanently out of U.S.-parented corporate solution and into foreign-parented corporate solution. Part II concludes with a discussion of the relationship between the GILTI tax and the new deduction for "foreign-derived intangible income" ("FDII").

Part I: The Model Introduced and Applied to Pre-TCJA U.S. Law

A. The Pre-TCJA U.S. International Tax System

Prior to enactment of the TCJA, U.S. corporations were nominally taxed on their worldwide income at a top rate of 35%,[1] dividends paid by U.S. subsidiaries to their U.S. parents were not taxed,[2] dividends paid by U.S. parents to individual U.S. shareholders were taxed at a top rate of 23.8%,[3] and dividends paid by U.S. parents to individual foreign shareholders were taxed at a top rate of 30%.[4]

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1 Old IRC §11(b)(1)(D). This paper will use the acronym IRC to refer to provisions of the Internal Revenue Code, 26 U.S.C. In the case of provisions that were changed by the TCJA, this paper will refer to "Old IRC" and "New IRC." It will cite sections or subsections that were not changed simply to "IRC."

2 IRC §243(a)(3) (allowing a 100% dividends-received-deduction for qualifying dividends); IRC §243(b) (qualifying dividend defined as dividend received from another member of the same affiliated group); IRC §1504(a) (defining affiliated group as chain of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation, but only if a 80% voting and value test is met).

3 IRC §1(h)(1)(D) (imposing tax at top rate of 20% on net adjusted net capital gain of individual taxpayers); IRC §1(h)(3) (defining adjusted net capital gain to include qualified dividend income); IRC §1(h)(11) (defining qualified dividend income as dividends received from domestic corporations and qualified foreign corporations) and IRC §1411(a)(1) (imposing additional tax at top rate of 3.8% on net investment income of domestic individual taxpayers).

4 IRC §871(a)(1)(A), enforced by withholding at source pursuant to IRC §1441.

Foreign corporations, by contrast, were only subject to U.S. tax on income with some U.S. connection; specifically, (1) income effectively connected with a U.S. trade or business ("ECI") was taxed at a top nominal rate of 35%,[5] and (2) U.S.-source gross income other than income from sales ("U.S.-source FDAP") was taxed at a flat rate of 30%.[6] Dividends paid by foreign subsidiaries to their U.S. parents were taxed at a top rate of 35% (the "repatriation tax").[7] Dividends paid by foreign parents to individual U.S. shareholders were taxed at a top individual rate of 23.8% if the foreign parent constituted a "qualified foreign corporation" within the meaning of Internal Revenue Code ("IRC") §1(h)(11)(C) and at a top individual rate of 43.4% if it did not.[8]

In practice, however, the nominal unilateral rules described above did not define the U.S. tax law environment within which most MNEs actually operated. Because U.S. law recognizes each corporate subsidiary as a separate taxpayer, under pre-TCJA law U.S.-parented MNEs could generally avoid current U.S. taxation of their real foreign business operations by conducting those operations through foreign subsidiaries.[9] In addition, the U.S. had and has an extensive bilateral tax treaty network that limits the operation of its unilateral rules. Each treaty is unique. Under the U.S. Model Income Tax Convention[10] (the "Model Treaty") that U.S. negotiators use as a benchmark when negotiating specific bilateral treaties, however, dividends paid by U.S. corporations to their foreign parents were subject to U.S. tax at a top rate of

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5 IRC §882.

6 IRC §881.

7 IRC §11(b)(1)(D). The dividends-received-deduction allowed with respect to dividends received from domestic corporations was not allowed with respect to dividends received from foreign corporations because IRC §1504(b)(3) excluded foreign corporations from the term "includible corporation," as a result of which foreign corporations could not constitute members of the recipient corporation's affiliated group, as a result of which dividends paid by such foreign corporations could not constitute "qualifying dividends" within the meaning of IRC §243(b).

8 Dividends paid by foreign parents to individual U.S. shareholders were taxable as net capital gain and net investment income, *see* note 3, *supra*, if such foreign parents constituted "qualified foreign corporations" within the meaning of IRC §1(h)(11)(C) and as ordinary income and net investment income, *id.*, if they did not.

9 The most important exception to this general rule was Chapter 1, Subchapter N, Part III, Subpart F ("Subpart F"), IRC §§951-964, which taxed U.S. parents currently on types of income believed to be arbitrarily mobile that were earned nominally by their foreign subsidiaries. The model described in this paper assumes that Subpart F is an anti-abuse provision, shifting income nominally earned by a foreign subsidiary back to its U.S. parent, where it more properly belonged.

10 *See* United States Model Income Tax Convention of November 15, 2006 ("Model Treaty"), *available at* https://www.irs.gov/pub/irs-trty/model006.pdf.

5%,[11] and dividends paid by U.S. corporations to other foreign shareholders were subject to U.S. tax at a top rate of 15%.[12]

In structuring the basic model that follows, therefore, I make a series of simplifying assumptions: (1) All operations are conducted through wholly-owned local subsidiaries. Thus, U.S. operations are always conducted through U.S. subsidiaries and foreign operations through local foreign subsidiaries; U.S. subsidiaries have only U.S.-source income and foreign subsidiaries only foreign-source income. (2) The Model Treaty applies, as a result of which all foreign corporations constitute "qualified foreign corporations" for purposes of IRC §1(h)(11)(C). (3) All taxpayers use standard lawful sheltering techniques but no unlawful techniques. (4) Taxpayers do not income-shift (*e.g.*, all intercompany prices are arm's-length) or income-strip. (5) There is no Subpart F income.[13] (6) Top nominal tax rates always apply; lower rates for lower-income taxpayers are ignored. (7) Effective tax rates equal nominal rates; the model does not attempt to compute the lower effective rates of taxes made possible by deferral (*e.g.*, expensing or accelerated depreciation). (8) All taxes are borne by the nominal taxpayers; the model does not attempt to take into account any shifting of the incidence of the corporate income or any other tax.

On the foregoing assumptions, prior to the TCJA, income from capital deployed through U.S.-parented MNEs was subject to U.S. tax as follows. Income from U.S. operations, undertaken through U.S. subsidiaries, was taxed currently at 35%. Dividends paid by U.S. subsidiaries to their U.S. parents were not taxed. Income from foreign operations, undertaken through local foreign subsidiaries, was not currently taxed. Dividends paid by foreign subsidiaries to their U.S. parents were taxed at a rate of 35%. Dividends paid by U.S. parent corporations to their individual U.S. shareholders were taxed at a rate of 23.8%. Dividends paid by U.S. parent corporations to their individual foreign shareholders were taxed at a rate of 15%.

The foregoing rules can be summarized graphically as follows:

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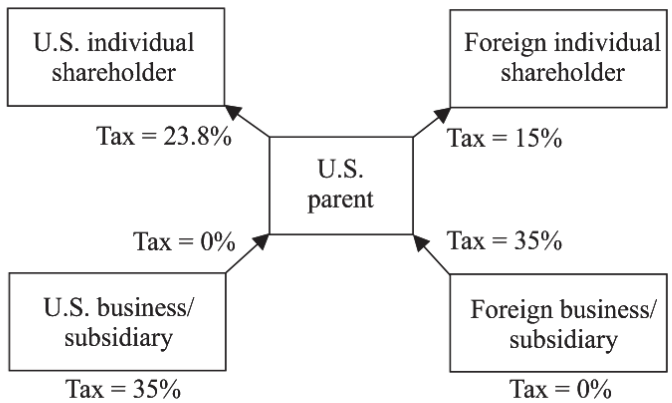
[11] Model Treaty, Art. 10, para. 2(a) (tax imposed by country of corporation paying dividends limited to 5% of gross amount of dividends if beneficial owner is a company that owns directly at least 10% of voting stock of company paying dividends).

[12] Model Treaty, Art. 10, para. 2(b) (tax imposed by country of corporation paying dividends limited to 15% of gross amount of dividends if beneficial owner is not a company that owns directly at least 10% of voting stock of company paying dividends).

[13] *See* note 9, *supra*.

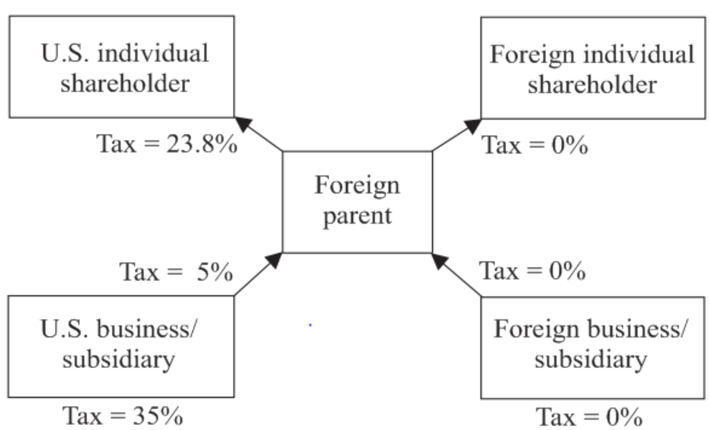
Figure 1: Pre-TCJA U.S. Taxation of U.S. Multinationals



Similarly, on the foregoing assumptions, income from capital deployed through foreign-parented MNEs was subject to U.S. tax as follows. Income from U.S. operations, undertaken through U.S. subsidiaries, was taxed currently at 35%. Dividends paid by U.S. subsidiaries to their foreign parents were taxed at a rate of 5%. Income from foreign operations, undertaken through local foreign subsidiaries, was not taxed. Dividends paid by foreign subsidiaries to their foreign parents were not taxed. Dividends paid by foreign parent corporations to their individual U.S. shareholders were taxed at a rate of 23.8%. Dividends paid by foreign parent corporations to their individual foreign shareholders were not taxed.

Again, the foregoing rules can be summarized graphically as follows:

Figure 2: Pre-TCJA U.S. Taxation of Foreign Multinationals



The effective rate of tax on income from capital deployed through U.S.-parented or foreign-parented multinationals depended on the extent to which any resulting income was distributed currently. We can compute two endpoints of the resulting range: (1) the effective rate of tax if income was not distributed upstream at any level (full deferral), and (2) the effective rate of tax if all income was distributed currently through to individual shareholders as taxable dividends (no deferral). Figures 3 and 4 summarize the results.

Figure 3: Pre-TCJA Effective Tax Rates Full Deferral

	U.S. parent	Foreign parent
U.S. operations	35%	35%
Foreign operations	0%	0%

Thus, regardless of whether capital was drawn from U.S. or foreign individual investors and regardless of whether a U.S.-parented or foreign-parented MNE was used to deploy the resulting capital in business operations, if the resulting income was not distributed upstream, income from U.S. operations was subject to U.S. tax at a rate of 35% and income from foreign operations at a rate of 0%. All else being equal, both U.S.-parented and foreign-parented MNEs therefore had a strong U.S. tax incentive to locate their operations offshore.

Figure 4: Pre-TCJA Effective Tax Rates No Deferral

		U.S. parent	Foreign parent	Foreign advantage
U.S. operations				
	U.S. equity	50.47%	52.95%	-2.48%
	Foreign equity	44.75%	38.25%	6.50%
Foreign operations				
	U.S. equity	50.47%	23.80%	26.67%
	Foreign equity	44.75%	0.00%	44.75%

If all income was distributed upstream currently, by contrast, pre-TCJA law created no U.S. tax incentives for U.S.-parented MNEs to locate operations offshore (see the U.S. parent column of Figure 4). Comparing Figures 3 and 4, however, it is evident that pre-TCJA law created strong incentives for U.S.-parented MNEs *not* to distribute income upstream currently, in which case they then faced strong incentives to locate operations offshore rather than within the United States, as set forth in Figure 3.

The picture was starkly different for income from capital deployed through foreign-parented MNEs. Regardless of whether such income was distributed upstream currently, foreign-parented MNEs faced significant U.S. tax incentives to locate their operations outside the United States. See Figures 3 and 4.

Except in the case of U.S. equity used to fund U.S. operations and except at the full deferral endpoint, U.S. tax law also evidenced a structural bias in favor of foreign-parented MNEs. For U.S. operations funded by U.S. equity, if all income was distributed upstream currently, U.S.-parented MNEs enjoyed a small (2.48 percentage point lower tax rate) U.S. law advantage over their foreign-parented rivals. This resulted from the fact that foreign parents were taxed at a rate of 5% on dividends from their U.S. subsidiaries, while U.S. parents were not. For all other permutations, U.S. law created an advantage to deploying such funds through foreign-parented MNEs – a modest 6.50 percentage point advantage for foreign equity funding U.S. operations, a significant 26.67 percentage point advantage for U.S. equity funding foreign operations, and a stunning 44.75 percentage point advantage for foreign equity funding foreign operations.

B. Economic Distortions under Pre-TCJA Law

1. Bias in favor of offshore operations

It is unlikely that Congress ever intended to create a structural U.S. tax law bias favoring offshore operations. That bias appears rather to have been the unintended consequence of a series of non-tax developments. The theory underlying the pre-TCJA structure, established in the early part of the 20th century,[14] was that each country should have primary jurisdiction to tax economic activity within its borders. If a factory was located in the United States, then-prevailing theory said, the United States should have primary jurisdiction to tax the resulting profits; if it was located in some other country, that country should be allocated primary tax jurisdiction instead. If the foreign country in which a plant was located imposed its own 35% tax on such operations, no overall bias in favor of locating business activity there, rather than the United States, would result. If the foreign country in which a plant was located instead chose not to tax such operations at all or to tax them at some other rate, that decision was its business and no one else's. At the time, tariffs, high transportation costs, and other non-tax considerations commonly led MNEs to locate operations near their ultimate customers, regardless of tax.

Since the mid-20th century, however, global trade has expanded dramatically. Between 1960 and 2016, U.S. international trade (imports plus

[14] Some variant of the structure described in Part IA has been in place since at least 1918. *See* JOEL E. KUNTZ & ROBERT J. PERONI, 1 U.S. INTERNATIONAL TAXATION ¶ A1.01, A1-3 (Thompson Reuters 2014) (describing major changes to the structure since 1918, none of which affected the basic structure described in Part IA).

exports) grew from 9.2% to 26.6% as a percentage of U.S. GDP.[15] In part, this reflected a decline of non-tax barriers to trade, which economists define as including "transportation costs (both freight costs and time costs), policy barriers (tariffs and nontariff barriers), information costs, contract enforcement costs, costs associated with the use of different currencies, legal and regulatory costs, and local distribution costs (wholesale and retail)."[16] The mid-90s saw a series of transformational non-tax measures intended to liberalize international trade, most prominently NAFTA[17] and the Uruguay Round of the General Agreement on Trade and Tariffs,[18] which resulted in establishment of the World Trade Organization.[19]

As a result, a U.S. international tax system based on the assumption that location of plant and jobs would be based primarily on non-tax considerations has itself increasingly become a significant factor in MNEs' decisions as to where to locate business operations. The theory underlying the pre-TCJA structure – that a foreign country's decision not to tax an MNE's operations was its business and no one else's – has allowed other countries to take advantage of the pre-TCJA U.S. tax law bias in favor of offshore operations to attract operations previously conducted in the United States.

Such a bias, if not offset by other countries' tax rules, should depress demand for U.S. labor. Reduced demand for U.S. labor should, in turn, result in reduced growth in wages and salaries. Actual growth of U.S. wages and salaries since the latter part of the 20th century has been consistent with this theoretical prediction. Between 1974 and 2016, real median personal income in the United

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15 *See* World Bank, Trade (% of GDP), *available at* https://data.worldbank.org/indicator/NE.TRD.GNFS.ZS. The comparable figures for the world as a whole were 24.1% in 1960 to 56.4% in 2016. *Id.*

16 *See* James E. Anderson & Eric van Wincoop, *Trade Costs*, 42 J. ECON. LIT. 691, 691-692 (2004). Between 1955 and 2004, for example, air shipping costs declined by 92%. David Hummels, *Transportation Costs and International Trade in the Second Era of Globalization*, 21 J. ECON. PERSP. 131 (2007).

17 North American Free Trade Agreement, Dec. 17, 1992, 32 I.L.M. 289 (1993).

18 Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, Apr. 15, 1994, 33 I.L.M. 1125, 1143 (1994), 1867 U.N.T.S. 14.

19 Other recent such measures have included the Israel–United States Free Trade Agreement (1985), the Jordan–United States Free Trade Agreement (2001), the Australia–United States Free Trade Agreement (2004), the Chile–United States Free Trade Agreement (2004), the Singapore–United States Free Trade Agreement (2004), the Bahrain–United States Free Trade Agreement (2006), the Morocco-United States Free Trade Agreement (2006), the Oman–United States Free Trade Agreement (2006), the Peru–United States Trade Promotion Agreement (2007), the Dominican Republic–Central America Free Trade Agreement (DR-CAFTA 2005), the Panama–United States Trade Promotion Agreement (2012), the United States–Colombia Free Trade Agreement (2012), and the United States–Republic of Korea Free Trade Agreement (2012).

States grew at an average annual compound rate of only 0.68%.[20] By contrast, over the same period the economy as a whole (real GDP per capita) grew at an average annual compound rate of 1.78%,[21] over two and a half times as fast. Between 1998 and 2016, after trade liberalization, the growth rate for real median personal income dropped to less than 0.32%[22]; real GDP per capita grew at an average annual compound rate of 1.23%,[23] almost four times as fast. Separating out the extent to which the bias in U.S. tax rules in favor of offshore operations contributed to these trends presents difficult econometric problems. Theory suggests, however, that it likely played a significant role.

2. Incentives to shift income to foreign members of multi-national groups

Incentives created by the U.S. international tax system to move U.S. business operations offshore, although profoundly important economically, have not gained the notoriety among tax policymakers that transfer pricing and income-stripping have. One widely-used practice guide estimates that "nearly 75% of [IRS] adjustments to multinational companies' incomes in recent years have been related to transfer pricing issues."[24]

My model suggests, however, that MNEs' incentives to engage in transfer pricing and income-stripping are simply corollaries of Problem 1 – the U.S. tax system's bias in favor of offshore operations. Instead of moving actual operations offshore, transfer pricing and income-stripping artificially reattribute domestic income to offshore entities. In effect, they allow an MNE to pretend that business operations and their resulting profits have moved out of the United States for tax purposes without requiring that they actually move.

This has two important implications.

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[20] Federal Reserve Bank of St. Louis, Real Personal Median Income in the United States, *available at* https://fred.stlouisfed.org/series/MEPAINUSA672N (computations of average annual compound rates by author).

[21] Federal Reserve Bank of St. Louis, Real Gross Domestic Product per Capita, *available at* https://fred.stlouisfed.org/series/A939RX0Q048SBEA.

[22] Federal Reserve Bank of St. Louis, Real Personal Median Income in the United States, *available at* https://fred.stlouisfed.org/series/MEPAINUSA672N.

[23] Federal Reserve Bank of St. Louis, Real Gross Domestic Product per Capita, *available at* https://fred.stlouisfed.org/series/A939RX0Q048SBEA.

[24] *See* Marc M. Levey *et al.*, *Practical Applications of Transfer Pricing: A Case Study Approach*, in MARC M. LEVEY ET AL., TRANSFER PRICING: ALTERNATIVE PRACTICAL STRATEGIES, 890 BNA TAX MANAGEMENT PORTFOLIO A-1, at A-1. *See also* Michael C. Durst & Robert E. Culbertson, *Clearing Away the Sand: Retrospective Methods and Prospective Documentation in Transfer Pricing Today*, 57 TAX L. REV. 37 (2003) ("a large-volume exercise, to which virtually all multinational companies today must devote substantial resources"); Eduardo Baistrocchi, *The Transfer Pricing Problem: A Global Proposal for Simplification*, 59 TAX LAW. 941 (2006).

First, the size of the U.S. tax incentive to engage in transfer pricing and income-stripping can be measured using the same Figure 3 and Figure 4 analyses used to measure the size of the U.S. tax incentive to move actual operations offshore. Under pre-TCJA law, for example, assuming no current distributions upstream, either would result in the same reduction in U.S. taxes from 35% to zero.

Second, both result in the same revenue loss to the U.S. Treasury. Moving actual operations offshore, however, also results in lower demand for U.S. labor, lower U.S. employment, lower median wages, and a hollowing out of U.S. business activity. Transfer pricing and income-stripping are therefore *more desirable*, from a U.S. perspective, than actual offshoring. To the extent we are successful in shutting down transfer pricing and income-stripping, we may actually *increase* MNEs' incentives to move real business operations out of the country. The two are substitutes for each other.

3. Bias in favor of foreign-parented MNEs

Unlike offshoring and income-shifting, the U.S. international tax system's structural bias against U.S.-parented MNEs has received little public attention. Many have criticized the fact that pre-TCJA nominal U.S. corporate tax rates were high relative to those imposed by other developed countries. As the analysis set forth in Part IA of this article demonstrates, however, the problem of bias against U.S.-parented MNEs was fundamentally one of structure, not of rate. Higher rates merely exacerbated the structural problems; lower rates by themselves could not reasonably have been expected to solve them.

The one context in which this structural bias became salient prior to TCJA was that of corporate inversions – transactions in which U.S.-parented MNEs became foreign-parented. The analysis set forth in Part IA above makes obvious why corporations might have been tempted to undertake such transactions. In 2004, Congress responded to this perceived problem by enacting IRC §7874, which, among other things, taxes the new foreign parent as if it were a U.S. corporation if at least 80% of its stock is held by former shareholders of the old U.S. parent and the MNE does not have substantial business activities in the country in which the new parent is incorporated.

Corporate inversions, however, were merely one symptom of a more fundamental problem – that, except in the no distribution case (see Figure 3, above) and the case of U.S. equity deployed to fund U.S. operations, income from capital deployed through U.S.-parented MNEs was taxed at higher overall U.S. rates than income from capital deployed through foreign-parented MNEs (see Figure 4, above). All else being equal, as foreign equity became an increasingly large share of total world equity and foreign business operations became an increasingly large share of total world business operations, we should have expected funds to flow out of U.S.-parented corporate solution and into foreign-parented corporate solution.

This structural incentive for funds to move out of U.S.-parented corporate solution was one of the most fundamental but least appreciated problems of the U.S. tax system pre-TCJA and, as will be seen, remains a problem today. Anti-inversion rules merely block one way in which such flows may occur, even if those rules can be made perfectly effective in the limited circumstances to which they apply. If the United States insists on imposing higher tax rates on income from capital deployed through U.S.-parented groups, it is hard to imagine any set of anti-abuse rules, however structured, that will effectively prevent the share of world capital deployed through U.S.-parented groups from declining over time.

Whether such a decline is problematic is a separate question. One can, however, imagine U.S. policymakers concluding that maintaining U.S. parentage for a significant portion of the world's MNEs creates positive externalities for the United States as a whole. They might reasonably conclude, for example, that it is better from a U.S. perspective to allow ExxonMobil, a U.S.-parented MNE, to compete on an equal U.S. tax footing with BP (formerly "British Petroleum") and Royal Dutch Shell, both foreign-parented MNEs, General Motors to compete on an equal U.S. tax footing with Toyota, and Hewlett-Packard to compete on an equal U.S. tax footing with Lenovo Group Ltd., formerly IBM's personal computer division, now Chinese-owned.

4. Barriers to repatriating foreign profits to U.S. parents

U.S.-parented MNEs have long sought repeal of the so-called "repatriation tax." Behind their arguments lay an implicit vision of vast pots of unused cash sitting offshore, just waiting for an opportunity to return to the United States to be invested in new plants and jobs.

Prior to TCJA, however, what has come to be labeled the "repatriation tax" was an integral part of Congress's decision to tax U.S. corporations on their worldwide income. Business income generated in the United States, typically through U.S. subsidiaries, was taxed to those subsidiaries when earned. When after-tax profits were dividended up to the U.S. corporate parent, the parent was eligible for a 100% dividends-received deduction under IRC §243, as a result of which the parent was not taxed on those dividends. Alternatively, if parent and subsidiary filed consolidated returns, those dividends were eliminated in consolidation.[25] By contrast, business income generated outside the United States through foreign subsidiaries was generally not taxed on a current basis by the United States. Instead, dividends paid by foreign subsidiaries to their U.S. parent were includible in the parent's income when paid, taxable at the parent's ordinary rate. Such dividends were not eligible for the dividends-

[25] Treas. Reg. §1.1502–13, 26 C.F.R. §1.1502–13.

received deduction.[26] Business operations both in the United States and abroad were thus taxed at the same ordinary rate (35%); the difference was that profits from U.S. business operations were taxed currently, while those from foreign business operations were only taxed when dividended up to the U.S. parent. This structure is illustrated in Figure 1 above.

The so-called "repatriation tax" was necessary to the structure. Consider again Figure 4 above, which found that if all earnings were distributed upstream currently, U.S.-parented MNEs faced no U.S. tax incentive to move their business operations offshore. Apart from the timing difference, U.S. and foreign business operations were taxed identically. Now consider what would have happened if the TCJA had repealed the repatriation tax (that is, extended the 100% dividends-received deduction to dividends paid by foreign subsidiaries) but made no other changes. The results appear in Figure 5 below.

Figure 5: Pre-TCJA Effective Tax Rates No Deferral
With Repatriation Tax Repeal

		U.S. parent	Foreign parent	Foreign advantage
U.S. operations				
	U.S. equity	50.47%	52.95%	-2.48%
	Foreign equity	44.75%	38.25%	6.50%
Foreign operations				
	U.S. equity	23.80%	23.80%	0.00%
	Foreign equity	15.00%	0.00%	15.00%

With repatriation tax repeal but no other changes, both U.S.- and foreign-parented MNEs would have faced significant tax incentives to offshore, even if all earnings were distributed upstream currently. Stated another way, *the*

26 Under IRC §243(a)(3), "qualifying dividends" were eligible for a 100% dividends-received deduction. Under IRC §243(b)(1)(A), "Qualifying dividends" were limited to dividends received from a corporate member of the same "affiliated group." Under IRC §243(b)(2), the term "affiliated group" was defined by reference to IRC §1504(a), without reference to IRC §1504(b)(2), 1504(b)(4), and 1504(c). Under IRC §1504(a), membership in an affiliated group was limited to "includible corporations." Under IRC §1504(b)(3), foreign corporations were specifically excluded. As a result, dividends received from foreign corporations were not "qualifying dividends" for purposes of the 100% dividends-received deduction of IRC §243(a)(3). IRC §§243(e) and 245 authorized a separate dividends-received deductions for dividends paid by certain foreign corporations out of U.S. earnings and profits, but those provisions are not relevant to my model, which assumes that all U.S. operations are conducted through U.S. subsidiaries.

repatriation tax limited the U.S. tax system's incentive for U.S.-parented MNEs to offshore their business operations.

Will repeal of the repatriation tax result instead in *more* U.S. investment, as has sometimes been claimed? As will be explored in Part II below, this will depend on the interaction of several parts of the TCJA. The fact that the pre-TCJA repatriation tax limited incentives to offshore business operations, however, suggests that repeal will not necessarily result in less offshoring and more U.S. investment. Indeed, exactly the opposite is possible.

Part II: The Model Applied to Post-TCJA U.S. Law

This Part II will only model ostensibly permanent provisions of the TCJA. Thus, for example, it will not model the one-time tax on deferred foreign income imposed by TCJA §14103; nor will it model the interim lower tax rate on GILTI.

A. The Post-TCJA U.S. International Tax System

Most of the rules described in Part I governing nominal taxation of U.S. corporations remain in place after TCJA. Dividends paid by U.S. subsidiaries to their U.S. parents remain untaxed,[27] dividends paid by U.S. parents to individual U.S. shareholders continue to be taxed at a top rate of 23.8%,[28] and dividends paid by U.S. parents to individual foreign shareholders continue to be taxed at a top unilateral rate of 30% and a top Model Treaty rate of 15%.[29]

Two changes, however, have important ramifications for the model described in Part I. First, U.S. corporations are now taxed at a top rate of 21%, down from 35%.[30] Second, the TCJA imposed a new tax at a long-term rate of 13.125% on the "global intangible low-taxed income" ("GILTI") of foreign subsidiaries, which tax is payable currently by their U.S. parents.[31] More

27 IRC §243(a)(3) (allowing a 100% dividends-received-deduction for qualifying dividends); IRC §243(b) (qualifying dividend defined as dividend received from another member of the same affiliated group); IRC §1504(a) (defining affiliated group as chain of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation, but only if a 80% voting and value test is met).

28 IRC §1(h)(1)(D) (imposing tax at top rate of 20% on net adjusted net capital gain of individual taxpayers); IRC §1(h)(3) (defining adjusted net capital gain to include qualified dividend income); IRC §1(h)(11) (defining qualified dividend income as dividends received from domestic corporations and qualified foreign corporations) and IRC §1411(a)(1) (imposing additional tax at top rate of 3.8% on net investment income of domestic individual taxpayers).

29 IRC §871(a)(1)(A), enforced by withholding at source pursuant to IRC §1441.

30 Internal Revenue Code ("IRC") §11(b)(1)(D).

31 New IRC §§250 and 951A.

precisely, new IRC §951A(a) requires that each "United States shareholder" (that is, each United States person who owns, directly or by attribution, 10% or more by voting power of the stock)[32] of a controlled foreign corporation include in its gross income its share of that foreign corporation's GILTI. New IRC §250 then allows the United States shareholder to deduct 37.5% of that included amount.[33] If the United States shareholder's income is taxed at a top rate of 21%, this results in taxing the controlled foreign corporation's GILTI to its United States shareholder at a rate of 13.125%.

How much of a foreign corporation's income constitutes GILTI depends on how much depreciable property is used in the production of that income. Specifically, a foreign corporation's GILTI equals the amount by which the foreign corporation's income exceeds a deemed 10% return on the aggregate basis of its depreciable property, computed using the alternative depreciation system of IRC §168(g). Thus, a foreign corporation with a large enough depreciable asset base will have no GILTI. By contrast, all of the income of a foreign corporation with no depreciable assets may be GILTI. Note that notwithstanding the name – "global intangible low-taxed income" – GILTI includes many kinds of income we do not normally think of as income from intangible assets: for example, income from the sale of goods, income from land, income from services, income from currency fluctuations, and even income from depreciable assets if the business is especially profitable.

The TCJA also made changes to the rules governing taxation of foreign corporations. First, income effectively connected with a U.S. trade or business is now taxed at the same new top nominal rate of 21%.[34] Second, the foreign-source portion of dividends paid by foreign subsidiaries to their U.S. parents are no longer taxed; in effect, the repatriation tax has been repealed.[35] Third, dividends paid by foreign parents to individual U.S. shareholders are now taxed at a top rate of 40.8% (down from 43.4%) if the foreign parent does not constitute a "qualified foreign corporation" within the meaning of IRC §1(h)(11)(C).[36] Dividends paid by foreign parents to individual U.S. shareholders continue to be taxed at a top rate of 23.8% if the foreign parent constitutes a "qualified foreign corporation" within the meaning of that section,

[32] IRC §951(b).

[33] New §250(a)(1)(B) allows deduction of 50% of that GILTI. New §250(a)(3)(B) reduces that deduction to 37.5% for taxable years beginning after 2025.

[34] IRC §882, incorporating by reference the lower rate imposed by new IRC §11.

[35] Technically, TCJA added new IRC §245A, which allows a 100% dividends-received deduction for the foreign-source portion of any dividend received from a foreign corporation with respect to which the recipient domestic corporation is a United States shareholder within the meaning of IRC §951 – which is to say, owns 10% or more of the stock of the foreign corporation by voting power.

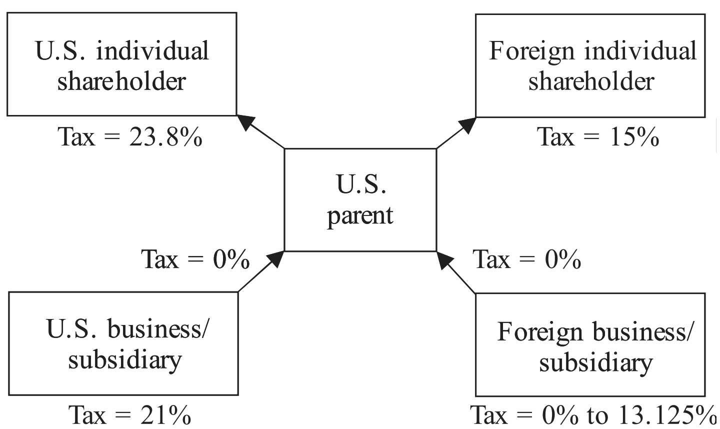
[36] This results from the fact that the top individual rate is reduced from 39.6% to 37%. New IRC §1. To these rates must be added, in each case, the 3.8% tax on net investment income. *See* note 3, *supra*.

and U.S.-source FDAP continues nominally to be taxed at a flat rate of 30%.[37] Dividends paid by foreign parents to foreign shareholders generally remain exempt from U.S. tax. Importantly, the new tax on GILTI does not apply to foreign parents of foreign subsidiaries, regardless of the character of their incomes or the size of their depreciable asset bases.[38]

Post-TCJA, making the same simplifying assumptions, income from capital deployed through U.S.-parented MNEs is therefore subject to U.S. tax as follows. Income from U.S. operations is taxed currently at 21%. Dividends paid by U.S. subsidiaries to their U.S. parents are not taxed. Income from foreign operations, undertaken through local foreign subsidiaries, is taxed to the subsidiaries' U.S. parents at rates between zero and 13.125%,[39] depending on the foreign subsidiaries' depreciable asset bases. Dividends paid by foreign subsidiaries to their U.S. parents are no longer taxed. Dividends paid by U.S. parent corporations to their individual U.S. shareholders continue to be taxed at a rate of 23.8%. Dividends paid by U.S. parent corporations to their individual foreign shareholders continue to be taxed at a rate of 15% under the Model Treaty.

The foregoing rules can be summarized graphically as follows:

Figure 6: U.S. Taxation of U.S. Multinationals Post-TCJA



Similarly, on the foregoing assumptions, income from capital deployed through foreign-parented MNEs is subject to U.S. tax as follows. Income from U.S. operations, undertaken through U.S. subsidiaries, is taxed currently at 21%. Dividends paid by U.S. subsidiaries to their foreign parent continue to be taxed at a rate of 5% under the Model Treaty. Income from foreign operations,

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37 IRC §881.

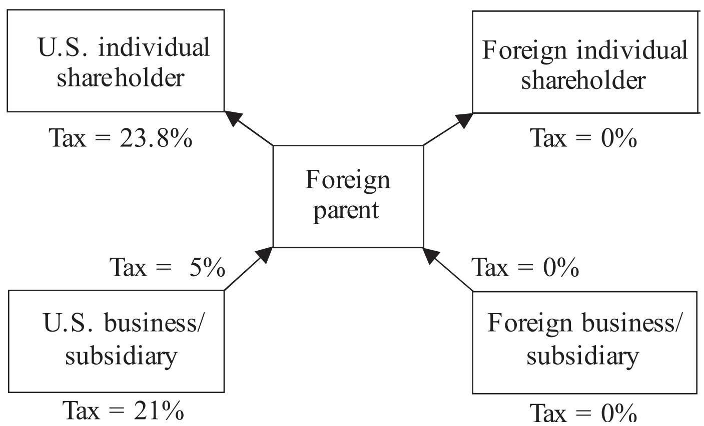
38 See text at notes 31-33.

39 The 13.125% rate recited in text is the long-term rate set by TCJA, not the interim rate applicable until 2026.

undertaken through local foreign subsidiaries, is still not taxed; the new tax on GILTI does not apply to foreign parents. Dividends paid by foreign subsidiaries to their foreign parent continue not to be taxed. Dividends paid by foreign parent corporations to their individual U.S. shareholders continue to be taxed at a rate of 23.8%. Dividends paid by foreign parent corporations to their individual foreign shareholders are still not taxed.

Again, the foregoing rules can be summarized graphically as follows:

Figure 7: U.S. Taxation of Foreign Multinationals Post-TCJA



The effective rate of tax on income from capital deployed through U.S.-parented or foreign-parented multinationals now depends on two factors, not one: (1) the extent to which any resulting income is distributed currently, and (2) the size of foreign subsidiaries' depreciable asset bases. We can compute four possible endpoints: (1) the effective rate of tax if income is not distributed upstream at any level and there is no GILTI (full deferral no GILTI), (2) the effective rate of tax if income is not distributed upstream at any level and all foreign subsidiary income is GILTI (full deferral all GILTI), (3) the effective rate of tax if all income is distributed currently through to individual shareholders and there is no GILTI (no deferral no GILTI), and (4) the effective rate of tax if all income is distributed currently through to individual shareholders and all foreign subsidiary income is GILTI (no deferral all GILTI). Figures 8 through 11 summarize the results.

Figure 8: Effective Tax Rates Full Deferral No GILTI

	U.S. parent	Foreign parent
U.S. operations	21%	21%
Foreign operations	0%	0%

Regardless of whether capital is drawn from U.S. or foreign individual investors and regardless of whether a U.S.-parented or foreign-parented MNE is used to deploy the resulting capital in business operations, if the resulting income is not distributed upstream and there is no GILTI, income from U.S. operations is subject to U.S. tax at a rate of 21% and income from foreign operations at a rate of 0%. The pre-TCJA structural bias in favor of offshoring remains, albeit at a lower rate.

Figure 9: Effective Tax Rates Full Deferral All GILTI

	U.S. parent	Foreign parent	Foreign advantage
U.S. operations	21.000%	21.000%	0.000%
Foreign operations	13.125%	0.000%	13.125%

If, however, income from foreign operations is all GILTI – that is, if the foreign subsidiary has no depreciable assets or has fully depreciated such assets – the difference between U.S. and foreign operations conducted by U.S.-parented groups is reduced from 21% to 13.125%, but a new difference, this time between U.S.-parented and foreign-parented MNEs engaged in foreign operations, is introduced. Post-TCJA, even in the full deferral case, if foreign operations generate GILTI, U.S. law taxes income from capital deployed through foreign-parented MNEs at lower rates. Because GILTI is so broadly defined, this is likely to place U.S.-parented MNEs seeking to operate outside the United States at a serious disadvantage. Worse, it is a problem that cannot be avoided by refraining from dividending income from foreign operations upstream, as was possible pre-TCJA.

Figure 10: Effective Tax Rates No Deferral No GILTI

		U.S. parent	Foreign parent	Foreign advantage
U.S. operations				
	U.S. equity	39.80%	42.81%	-3.01%
	Foreign equity	32.85%	24.95%	7.90%
Foreign operations				
	U.S. equity	23.80%	23.80%	0.00%
	Foreign equity	15.00%	0.00%	15.00%

In the no deferral case if foreign operations do not generate any GILTI, the new rules create a new structural bias in favor of offshoring by U.S.-parented MNEs. Recall that pre-TCJA, in the no deferral case U.S.-parented MNEs faced no U.S. tax incentive to offshore. See Figure 4.

If foreign operations do not generate any GILTI, the new rules also reduce the prior U.S. tax law structural bias in favor of foreign parentage. Recall that pre-TCJA, for U.S. operations funded by U.S. equity, if all income was distributed upstream currently, U.S.-parented MNEs enjoyed a small (2.48 percentage point lower tax rate) U.S. law advantage over their foreign-parented rivals. For all other permutations, U.S. law created an advantage to deploying such funds through foreign-parented MNEs – a 6.50 percentage point advantage for foreign equity funding U.S. operations, a 26.67 percentage point advantage for U.S. equity funding foreign operations, and a 44.75 percentage point advantage for foreign equity funding foreign operations.

In the no-GILTI case, the U.S.-parented advantage in the case of U.S. operations funded by U.S. equity has increased from 2.48 percentage points to 3.01 percentage points. The foreign-parented advantage for foreign equity funding U.S. operations has increased from 6.5 percentage points to 7.9 percentage points; the foreign-parented advantage for U.S. equity funding foreign operations has been eliminated; and the foreign-parented advantage for foreign equity funding U.S. operations has been reduced from 44.75 percentage points to 15 percentage points.

Figure 11: Effective Tax Rates No Deferral All GILTI

		U.S. parent	Foreign parent	Foreign advantage
U.S. operations				
	U.S. equity	39.80%	42.81%	-3.01%
	Foreign equity	32.85%	24.95%	7.90%
Foreign operations				
	U.S. equity	33.80%	23.80%	10.00%
	Foreign equity	26.16%	0.00%	26.16%

At the all-GILTI endpoint, however, the GILTI tax reduces U.S.-parented MNEs incentives to offshore their business operations, but a significant bias in favor of foreign parentage remains. Income from foreign operations funded by U.S. equity is taxed at a 10 percentage point lower U.S. tax rate if deployed through a foreign-parented MNE. This bias in favor of foreign-parented MNEs increases to 26.16 percentage points for foreign operations funded by foreign equity.

B. Economic Distortions under Post-TCJA Law

1. Bias in favor of offshore operations

As a comparison of Figures 3 and 8 makes clear, TCJA has reduced but not eliminated U.S. tax law's structural bias in favor of offshore business operations. In the "full deferral no GILTI" case that bias is reduced from 35% to 21% – the amount of the corporate tax rate reduction. The GILTI tax reduces the bias even further for U.S.-parented groups. If all foreign income of such groups is GILTI, the bias drops to 7.875 percentage points, the difference between the 21% tax rate imposed on domestic business operations and the 13.125% tax rate imposed on offshore business operations subject to the GILTI tax. The benefits of this latter reduction, however, may be offset by the GILTI tax's creation of a new bias in favor of foreign-parented groups – a bias that may increase pressure for capital to flow out of U.S.-parented and into foreign-parented MNEs, where foreign operations are not subject to the GILTI tax at all.

The economic effects of the U.S. tax system's continued bias against domestic business operations will depend on (1) the extent to which the tax systems of other countries take advantage of that bias to coax U.S. business operations offshore and (2) the elasticity the such location decisions. It is possible that TCJA's reduction of the size of the bias will have measurable positive consequences for the location of business operations within the United States. Unfortunately, given other changes to the system, the contrary is also possible as well. A destination-based system – the destination-based cash flow tax originally proposed in the Ryan Blueprint, a tax on worldwide consolidated corporate income with formulary apportionment based on sales, or a destination-based value-added tax – would have avoided this problem altogether.

2. Incentives to shift income to foreign members of multi-national groups

The TCJA's addition of a "Base Erosion and Anti-abuse Tax" ("BEAT"), not the primary focus of this paper, will limit opportunities for MNEs with significant U.S. operations to shift income offshore artificially. New IRC §59A applies to U.S. corporations with annual gross receipts in excess of $500 million and to foreign corporations with annual gross ECI receipts in excess of that same amount. Such corporations are now subject to minimum tax at a long-term rate of 12.5% on "modified taxable income" – essentially, taxable income increased by adding back (1) otherwise deductible payments to related foreign corporations for services, interest, rents and royalties, and (2) payments to related foreign corporations for depreciable or amortizable assets. Importantly, no add-back is required for payments properly characterized as cost of goods sold. The net effect is to limit the BEAT to income-shifting through use of payments between related parties that are deductible (immediately or over time) and includible. It does not address transfer pricing problems – sales between related parties at other than fair market value. Moreover, if foreign-parented MNEs can move enough of their business operations out of the United States to cap their annual U.S. gross receipts below $500 million, they can avoid the BEAT altogether.

The GILTI tax further limits opportunities for U.S.-parented groups to shift income offshore artificially, since such shifted income is likely to constitute GILTI, taxable currently to U.S. parents at 13.125% – a rate higher than the 12.5% BEAT rate. Income from sales may constitute GILTI. If so, the use of intercompany pricing techniques to shift income to foreign members of a U.S.-parented multinational group will only reduce the U.S. tax rate on that income from 21% to 13.125%. Foreign-parented MNEs, of course, are not subject to the GILTI tax, and are therefore not subject to constraints imposed on transfer pricing and income shifting by that tax – a significant advantage.

Finally, as was noted in Part IB, MNEs' incentives to shift income offshore artificially are simply corollaries of Problem 1 – the U.S. tax system's bias in favor of offshore operations. To the extent the TCJA has reduced the size of that bias, it has reduced incentives to income-shift. But as was also noted in Part IB, to the extent U.S. tax rules are effective in preventing artificial income-shifting, they may actually increase incentives to move real business operations offshore.

3. Bias in favor of foreign-parented MNEs

As a comparison of Figures 4, 10, and 11 makes clear, the pre-TCJA structural bias in favor of foreign-parented MNEs has been reduced, particularly where foreign operations do not generate GILTI. In this latter context, the use of foreign-parented MNEs to deploy foreign equity in foreign business operations offers a U.S. tax advantage of only 15%, down from the pre-TCJA advantage of 44.75%. Where foreign operations generate significant amounts of GILTI – income from the sale of goods, income from services, income from land, income from intangibles, or even income from depreciable assets if the foreign corporation is especially profitable – foreign parentage still offers significant U.S. tax advantages in the no deferral case: a 10 percentage point advantage if the deployed equity come from U.S. taxpayers and a 26.16 percentage point advantage if it comes from foreign taxpayers. In a major change from pre-TCJA law, if foreign operations generate GILTI foreign parentage now offers a significant advantage over U.S. parentage in the full deferral case as well. Compare Figures 3 and 9.

This means that, all else being equal, after-tax yields on investments through foreign-parented MNEs should continue to be higher post-TCJA, except for the deployment of U.S. equity in U.S. operations. As foreign equity becomes an increasingly large share of total world equity and foreign business operations become an increasingly large share of total world business operations, we should therefore continue to expect funds to flow out of U.S.-parented corporate solution and into foreign-parented corporate solution.

4. Barriers to repatriating foreign profits to U.S. parents

Finally, repeal of the repatriation tax has eliminated the pre-TCJA U.S. tax barrier to repatriation of foreign profits. At the same time, however, repeal of that tax has made it less expensive for capital to flee permanently out of U.S.-parented corporate solution and into foreign-parented corporate solution.

In 2004, Congress enacted a one-time tax holiday on repatriations. Of the \$362 billion of foreign profits repatriated during that holiday, most were distributed or used to repurchase stock.[40] Through June 30 of this year, corporations in the Standard & Poor's 500-stock index have already announced stock buyback programs totaling \$367 billion.[41] J.P. Morgan projects that S&P 500 companies could buy back over \$800 billion in stock in 2018 using repatriated profits – a loss of 3.5% of the S&P 500's entire market capitalization in a single year.[42]

This is precisely what my model predicts.

C. Relationship Between FDII and GILTI

As has been noted, new IRC §951A imposes a tax on the U.S. parent of a foreign subsidiary with GILTI at a long-term rate of 13.125%. Mechanically, it does so by allowing the U.S. parent a 37.5% deduction before taxing the GILTI at the top corporate rate of 21%. It then disallows 20% of the otherwise-

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[40] Dhammika Dharmapala *et al.*, *Watch What I Do, Not What I Say: The Unintended Consequences of the Homeland Investment Act*, NBER Working Paper 15023 (2009), *available at* http://www.nber.org/papers/w15023.

[41] *See* Larry Light, *Stock Buybacks Outstrip Capital Spending For 2018's 1st Half: Is That Bad? Forbes Aug 31, 2018*, available at https://www.forbes.com/sites/lawrencelight/2018/08/31/stock-buybacks-outstrip-capital-spending-for-2018s-1st-half-is-that-bad/#65351ff56615.

[42] *See* Chuck Jones, *2018 Share Buybacks Could Exceed \$800 Billion, Driven By Overseas Cash*, Forbes, March 16, 2018, *available at* https://www.forbes.com/sites/chuckjones/2018/03/16/2018-share-buybacks-could-exceed-800-billion-driven-by-overseas-cash/#3f4796f139d9.

applicable foreign tax credit. The effect is that GILTI tax ceases to be payable to the United States once the applicable foreign tax rate reaches 16.406%.

New IRC §250 allows U.S.-parented MNEs to achieve the same U.S. tax results through a U.S. subsidiary. The same depreciable assets are held by and the same income is received by a U.S., rather than foreign, subsidiary. Mechanically, the subsidiary is allowed a 21.875% deduction (rather than a 37.5% deduction) on its FDII ("foreign derived intangible income") – computed in the same manner as GILTI – but no part of the otherwise-applicable foreign tax credit is disallowed. The effect, again, is that U.S. tax on FDII ceases to be payable once the applicable foreign tax rate reaches 16.406%.

As a practical matter, this allows U.S.-parented MNEs to hold and operate foreign businesses through U.S., rather than foreign, subsidiaries with similar U.S. tax consequences. Why they would want to do so is unclear.[43] The effective rates of tax set forth in Figures 8 through 11 above would remain the same; all that would change is the assumption that foreign operations are conducted though foreign subsidiaries.[44]

Holding foreign businesses through U.S. subsidiaries, however, creates a further disadvantage that the new act does nothing to ameliorate. If the U.S.-parented MNE sells the subsidiary and business to a foreign-parented MNE, a foreign business held and operated through a U.S. subsidiary will remain subject to U.S. tax, while a foreign business held and operated through a foreign subsidiary will not. Recall that the GILTI tax does not apply to foreign-parented MNEs. Operating through a U.S. subsidiary is therefore likely to make the foreign business far less saleable to foreign-parented MNEs. Since capital invested in foreign operations is still taxed at lower U.S. rates if it is deployed through foreign-parented MNEs, this constitutes a major disadvantage. The foregoing analysis suggests that the FDII alternative is unlikely to be widely used.

Conclusion

Even a simple version of the model introduced here can provide useful insights into the likely effects of changes in U.S. international tax rules. The TCJA appears to have reduced but not eliminated a structural bias in U.S. international tax law in favor of offshore operations. Opportunities and incentives to shift income to foreign corporate members have been significantly reduced for U.S.-parented groups, less so for foreign-parented groups – exacerbating the advantage U.S. law gives to foreign-parented MNEs. The pre-TCJA structural bias in favor of foreign-parented MNEs has been reduced in

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[43] One possible use if FDII subsidiaries would be as stoppers for GILTI income earned by pass-through funds, where tax without cash is a practical problem. I am indebted to Samuel Greenberg of Ernst & Young for this observation.

[44] *See* p. 3, *supra*.

some contexts but increased in others. Finally, repeal of the repatriation tax has eliminated the pre-TCJA U.S. tax barrier to repatriation of foreign profits but, at the same time, made it more likely that capital will flee permanently out of U.S.-parented corporate solution and into foreign-parented corporate solution.