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Chairman Whitehouse, Ranking Member Grassley, and Members of this distinguished committee, it is an honor to participate in these hearings on corporate taxation. I teach at the University of Michigan, where I am Richard A. Musgrave Collegiate Professor of Economics in the Department of Economics, L. Hart Wright Collegiate Professor of Law in the law school, and Research Director of the Office of Tax Policy Research in the Stephen M. Ross School of Business. I taught previously at Princeton and Harvard, and am currently a Research Associate of the National Bureau of Economic Research, Research Director of the International Tax Policy Forum, President of the American Law and Economics Association, and President-Elect of the International Institute of Public Finance.

The topic of these hearings is "The great tax escape: closing corporate loopholes that reward offshoring jobs and profits," reflecting concern over incentives created by the corporate tax system. I share the view of this committee that the U.S. government, and the American people, have keen interests in well-designed U.S. corporate and individual income taxes that provide efficient incentives and that thereby raise the revenue the country needs as efficiently and equitably as possible.

There is no doubt that corporations and other taxpayers respond to incentives created by the tax system; we have ample evidence that they do, and indeed, this is why it is important to have a tax system that creates efficient incentives. One of the challenges of tax design – in every country and in every era – is that there is a tradeoff between raising tax revenue and creating efficient incentives. Any kind of taxation inevitably discourages income production and associated economic activity, and higher rates of taxation discourage economic activity to ever greater extents. Obviously, the government has to be financed; so in the course of meeting this need, it is incumbent on the country to design its taxes on individuals and businesses as cogently as possible, understanding that what good design does is that it limits the unfortunate economic consequences of taxation.

International corporate taxation is one area where tax design is particularly important, as U.S. firms compete with companies based in countries with tax systems that can be very different than our own. This was part of the motivation behind the international provisions of the 2017 tax legislation, since over time it became increasingly clear to all – to Congress, to the Obama administration, and subsequently to the Trump administration – that the United States was disadvantaging its economy with an antiquated worldwide corporate tax system. U.S. firms subject to U.S. taxation on their worldwide incomes did not compete on equal playing fields with many of their foreign competitors, and levels of U.S. business activity, and the productivity of U.S. workers, were negatively impacted as a result.

Prior to 2018, the high U.S. statutory tax rate of 35 percent together with the U.S. system of worldwide taxation had the effect of discouraging foreign business activity by U.S. firms, particularly activity in low-tax foreign countries. Firms from other countries were generally not subject to home country taxes on their foreign incomes, and as a result, were better able than U.S. firms to compete for business in low-tax countries. For example, if there were a business opportunity in Singapore – a promising tech company that was open to being acquired by a foreign buyer – then U.S. firms might compete not only with each other but also with Canadian, British, Japanese, German, and other firms for the acquisition. Companies from all of these other countries were in better tax positions to make the acquisition, because the U.S. tax system imposed a residual tax on foreign income earned in countries with lower tax rates than the United States. This does not mean that U.S. firms could not compete at all in these international markets, but that they were hampered in doing so by the operation of the U.S. tax system.

It is worth reflecting on the implications of this competition among firms from multiple countries for this Singapore acquisition. If a British firm successfully completes the acquisition due in part to its more favorable tax position, this is very much like a corporate inversion. In a classic corporate inversion, a U.S. firm might decide to reincorporate as a British firm for tax purposes. Of course even the inverted firm's U.S. operations would still have a U.S. home and be taxable by the United States, but Congress is concerned about corporate inversions because the firm's foreign operations that heretofore had been controlled by a U.S. firm would then, after the inversion, be controlled by a foreign company. The same is true when a British firm wins the bidding war for a Singapore company because U.S. firms are unable to compete on equal terms: foreign business activities are controlled by foreign firms due to the operation of the U.S. tax system. This loss of foreign business might be called an "invisible inversion" – invisible because the United States would never know that it lost the business. But its economic effects are the same as classic inversions.

Notably, in the pre-2018 era, these invisible inversions took place every day, because the U.S. tax system was so much less competitive than the tax systems of other countries that were homes to firms with which U.S. firms compete. While not as visibly dramatic as a corporate inversion or a foreign takeover of a U.S. company, they had the same economic impacts in shrinking the size of the U.S. business sector relative to what it would be otherwise, and distorting the pattern of asset ownership. This in turn reduced the demand for U.S. labor, and thereby depressed wages and employment opportunities in the United States.

Since almost all major capital-exporting countries have territorial tax systems, it follows that the way to compete with them on even terms is for the United States to maintain a territorial tax system also. Failure to do so distorts patterns of asset ownership, reducing the efficiency of the economy, disadvantaging U.S. firms, making them less productive, and reducing their demand for labor in the United States.[1] In this competitive environment, failing to impose a home country tax on lightly taxed foreign income is not a mistake or implicit subsidy, but instead just the efficient and correct policy to pursue.

The opportunity to earn income in low-tax foreign jurisdictions can be thought of simply as the opportunity to do business in places where a certain kind of cost – in this case, foreign tax cost – is lower. As a general matter, the United States benefits when its companies have low-cost business opportunities, because these opportunities increase the strength of the U.S.

[1] This reflects the absence of Capital Ownership Neutrality, as described in Mihir A. Desai and James R. Hines Jr., "Evaluating international tax reform," *National Tax Journal*, September 2003, 56 (3), 487-502, and Mihir A. Desai

economy. If this were a different kind of business cost – the cost of intermediate goods from a supplier, for example – there would be no discussion of the need to impose an offsetting charge on the foreign operations of U.S. companies that use low-cost supplies abroad. U.S. car companies use many inputs to their production processes that are produced economically in Canada, and the economies of Michigan, Ohio, and other states benefit as a result. It would be nonsensical to insist that the U.S. government offset any cost savings from Canadian operations by imposing taxes on U.S. companies using parts supplied from Canada. We should think of the tax system similarly, and be appropriately skeptical of the desirability of subjecting foreign income to U.S. taxation in order to compensate for low tax rates in some countries.

There is understandable concern that the foreign operations of U.S. multinational firms might come at the expense of their U.S. operations. To take an evocative example, a U.S.-based multinational manufacturing firm might close a U.S. plant and replace it with a plant in a lower-cost foreign country. This type of substitution clearly occurs, and when it does it has the effect of reducing U.S. labor demand. It does not, however, follow from this example that foreign direct investment by U.S. firms generally reduces their demand for labor in the United States, because there is an offsetting productivity effect of foreign business operations, and this productivity effect is a major stimulant to U.S. labor demand. The opportunity to earn profits with operations in foreign countries generally increases the productivity of U.S. business operations, and thereby stimulates additional business activity, and additional employment, in the United States. For example, greater opportunities for a U.S.-based multinational to sell locally-produced consumer products to foreign customers typically increases the return to U.S. operations that develop and refine the product, so in such cases an expansion of foreign business operations should be associated with greater employment, and greater employee compensation, in the United States.

There are therefore two important channels by which the foreign operations of U.S.-based multinational firms influence their domestic employment and employee compensation. The substitution effect, in which foreign operations replace what these firms otherwise would have done in the United States, depresses U.S. labor demand. The productivity effect, in which

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and James R. Hines Jr., "Old rules and new realities: Corporate tax policy in a global setting," *National Tax Journal*, December 2004, 57 (4), 937-960.

foreign operations enhance firm productivity, augments U.S. labor demand. The aggregate impact of foreign operations on U.S. labor demand depends on the relative magnitudes of these two effects. As a general matter, the more internationally competitive is the economic environment, the more important is the productivity effect compared to the substitution effect, and therefore the more likely is it that foreign operations by U.S.-based multinational firms increase demand for labor in the United States. In an industry with extremely keen competition, firms can survive only by taking advantage of every sales possibility and every opportunity to economize on costs. In such cases, if foreign operations enhance profitability then firms cannot survive and thrive without them, so the foreign operations of U.S. firms contribute to U.S. employment and employee compensation.

The automobile industry example illustrates these considerations. If a U.S. car company can produce better cars at lower cost using materials produced by their Canadian operations, then doing so enhances the ability of the company to compete with automobile manufacturers in Japan, Korea, Germany, and elsewhere. It would be intuitive, but inaccurate, to argue that the firm's Canadian production reduces business activity and employment in the United States – in fact, the opposite is typically the case, since in competitive industries it is necessary to maintain the most efficient production processes in order for a business to thrive in the United States. Does the desirability of producing some auto parts in Canada constitute an incentive to offshore jobs? – it does from the narrow perspective of where those individual parts are made. But the bigger picture is that the availability of Canadian operations makes it possible for U.S. companies to create and maintain many more jobs in the United States.

The available evidence suggests that the magnitude of the productivity effect generally exceeds that of the substitution effect, so greater foreign business activity of U.S.-based firms is associated with greater demand for labor in the United States. Mihir Desai, Fritz Foley and I found that for U.S.-based multinational firms between 1982 and 2004, 10 percent greater foreign capital investment was associated with 2.6 percent greater domestic investment, and 10 percent greater foreign employment was associated with 3.7 percent greater domestic employment. Greater foreign investment also had positive estimated effects on exports from the United States, and on U.S. research and development spending, indicating that foreign expansions stimulate demand for tangible and intangible domestic output. Subsequent work by Lindsay Oldenski and others reports similar evidence of foreign expansions by U.S.-based multinational firms being associated with greater U.S. employment in data through 2014; and studies of multinational firms based in other countries including Australia, Canada, Germany, and the United Kingdom offer analogous evidence that when these companies expand their operations in foreign countries they also enhance their employment and employee compensation in their home countries.[2]

Multinational firms are major U.S. employers. In 2017, U.S.-based multinational firms were responsible for 20.1 percent of U.S. private sector employment and 23.8 percent of U.S. private sector labor compensation.[3] These figures illustrate not only that these jobs represent a significant portion of the U.S. private workforce, but also that they are well paid, with average compensation 18 percent higher than the economy's average. In the same year foreign-based multinational firms accounted for an additional 6.4 percent of U.S. private employment and 8.0 percent of private employee compensation. Some sectors of the economy are particularly multinational-intensive, with U.S.-based multinational firms providing 51.6 percent of U.S. manufacturing employment and 59.9 percent of manufacturing employee compensation, and foreign-based multinationals contributing an additional 21.0 percent of U.S. manufacturing employment and 23.8 percent of U.S. manufacturing employee compensation. With multinational firms providing more than 80 percent of U.S. manufacturing jobs, and 27 percent of private sector jobs in all industries, it is obviously in the interest of the U.S. economy and U.S. workers to maintain thriving business operations by multinational firms.

From the standpoint of U.S. tax policy, it is clearly important not to impede productivity-enhancing foreign operations of U.S.-based firms, because doing so has the effect of reducing demand for labor in the United States. A more robust multinational sector has the potential to expand highly-compensated employment beyond 27 percent of the U.S. private sector workforce.

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[2] For the evidence discussed in this paragraph, and references to other studies, see Mihir A. Desai, C. Fritz Foley, and James R. Hines Jr., "Domestic effects of the foreign activities of U.S. multinationals," *American Economic Journal: Economic Policy*, February 2009, 1 (1), 181-203, and Lindsay Oldenski, "Do multinational firms export jobs?" in C. Fritz Foley, James R. Hines Jr., and David Wessel eds., *Global Goliaths: Multinational Corporations in the 21st Century Economy* (Washington, DC: Brookings, 2021), 227-255.

[3] The evidence described in this paragraph is drawn from C. Fritz Foley, James R. Hines Jr., Raymond J. Mataloni Jr., and David Wessel, "Multinational activity in the modern world," in C. Fritz Foley, James R. Hines Jr., and David Wessel eds., *Global Goliaths: Multinational Corporations in the 21st Century Economy* (Washington, DC: Brookings, 2021), 1-32.

But tax policy clearly also has the potential to have the unwanted effect of discouraging business operations by these firms.

Part of the motivation for these hearings is concern over international tax avoidance, and more specifically, the loss of tax revenue by the United States. These concerns are entirely reasonable, since taxpayers often have incentives to arrange their affairs in ways that produce taxable income in countries other than the United States. Furthermore, it is well documented that the location of taxable income is sensitive to tax rates. As a result, and particularly in the pre-2018 environment with a high U.S. corporate tax rate, taxpayers used financial and other means to report income in lower-tax foreign countries rather than the United States. Both in the past and now this shifting of tax base outside of the United States is a concern – but it is very easy, and indeed very common, greatly to exaggerate the extent of this problem.

The challenge in understanding the magnitude of international tax avoidance lies in understanding how much, and where, income would have been reported in the absence of tax-motivated profit shifting. This is extremely difficult to do, as a result of which studies use highly imperfect proxies. And studies also use imperfect data on the tax obligations of multinational firms.

The statistical evidence largely compares the reported profitabilities of multinational affiliates located in high-tax countries with the profitabilities of affiliates located in low-tax countries. This evidence consistently points to there being a problem with international income shifting, but that the problem is modest in size. Some of the best evidence[4] suggests that the semi-elasticity of income reporting is roughly 0.4, which means that a corporation with operations in two countries, one facing a 25 percent tax rate, and the other a 15 percent tax rate, will typically arrange its financial and other affairs to increase the reported income of the low-tax

[4] For thoughtful interpretive surveys of this literature, see Scott Dyreng and Michelle Hanlon, "Tax avoidance and multinational firm behavior," in C. Fritz Foley, James R. Hines Jr., and David Wessel eds., *Global Goliaths: Multinational Corporations in the 21st Century Economy* (Washington, DC: Brookings, 2021), 361-435, and Dhammika Dharmapala, "What do we know about base erosion and profit shifting? A review of the empirical literature," *Fiscal Studies*, December 2014, 35 (4), 421-448.

affiliate by four percent of what it would otherwise have been. Other, rather more persuasive, evidence suggests that the effect on reported profits might be only half as large as this.[5]

It is noteworthy that almost all of the available evidence reflects the behavior of taxpayers subject to enforcement by tax authorities other than those of the United States. A typical study considers the profitability of a multinational firm with operations in multiple countries such as Italy and Bulgaria. Since Italy imposes a 24 percent corporate tax, and Bulgaria 10 percent tax, there is an incentive to reallocate taxable income from the Italian operation to the Bulgarian operation. By comparing the reported profitabilities of the two operations, studies attempt to infer the extent to which this income reallocation occurs, and then extrapolate this pattern to apply to other situations. The difficulty with this exercise – and one of the reasons why it can offer misleading implications for the United States – is that U.S. rules and U.S. enforcers are not involved in policing any attempts to reallocate taxable income out of Italy. Despite resource limitations and other challenges, U.S. tax enforcement remains extremely effective compared to that of other countries. As a result, patterns of apparent income reallocation between other countries need not, and probably do not, appear to anywhere near the same degree when the United States is involved.

A separate issue that has come to light recently is that much of the data used to analyze international tax avoidance is commonly misinterpreted, and in particular, has been improperly construed to imply that multinational firms allocate much more income out of high-tax countries and into tax havens than in fact they do.[6] The problem arises because multinational firms commonly own foreign affiliates through holding companies in low-tax jurisdictions, and the accounting conventions mean that in such circumstances all of the income earned by lower-tier foreign affiliates are attributed to the tax haven holding company. Thus, a U.S. firm that invests in Germany via a Bermuda holding company might have taxable income of 100 in Germany, but the statistics would show income of 100 in Germany and 100 also in Bermuda. Since this type of arrangement is quite common for U.S. firms, particularly in the pre-2018 era when the use of

[5] Dhammika Dharmapala and Nadine Riedel, "Earnings shocks and tax-motivated income-shifting: Evidence from European multinationals," *Journal of Public Economics*, January 2013, 97, 95-107.
[6] Jennifer Blouin and Leslie Robinson, "Double counting accounting: How much profit of multinational enterprises is really in tax havens?" Available at SSRN: http://dx.doi.org/10.2139/ssrn.3491451

tax haven holding companies facilitated deferral of U.S. tax obligations on foreign income,[7] the data showed the tax haven affiliates of U.S. companies to have disproportionate incomes. The statistics are not wrong, but they are readily misinterpreted. In the example, the Bermuda affiliate in fact owns the shares of the German affiliate, so in that sense the Bermuda affiliate has an income of 100. But the essential point is that this 100 of income is taxed in Germany, and that is what had not been properly appreciated prior to the appearance of the recent paper by Jennifer Blouin and Leslie Robinson. Much of the reported income of tax haven affiliates is taxed by governments of higher-tax countries elsewhere, and in that sense is double-counted. As a result, most statistical studies greatly overstate the extent to which income is shifted into low-tax countries.[8]

It has long been clear that many of the estimates of income shifting by multinational firms greatly overstate the extent of the problem. Two simple empirical patterns reveal that it could not be the case that international tax avoidance is as prevalent as some claim.

The first evidence comes from the location of foreign business activities. Studies consistently find that multinational firms locate more employment, property, plant, and equipment in low-tax locations, and less in high-tax locations, than the structures of these economies would ordinarily warrant.[9] This business activity pattern is itself a form of base erosion from the standpoint of high-tax countries, albeit of a rather mundane form, since it is hardly surprising that high tax rates discourage business activity, whereas low tax rates attract it. From the standpoint of profit shifting, however, this pattern makes it clear that firms are unable to reallocate pretax income with impunity. If it were easy to reallocate taxable income there would be no benefit to locating real business activity in a low-tax country. The profit-maximizing strategy would be to locate business activity wherever it generates the highest pretax

[7] For an explanation and evidence of the role of tax haven holding companies in facilitating deferral, see Mihir A. Desai, C. Fritz Foley, and James R. Hines Jr., "The demand for tax haven operations," *Journal of Public Economics*, March 2006, 90 (3), 513-531.

[8] My own work, such as James R. Hines Jr. and Eric M. Rice, "Fiscal paradise: Foreign tax havens and American business," *Quarterly Journal of Economics*, February 1994, 109 (1), 149-182, is not exempt from this critique.

[9] See, for example, Mihir A. Desai, C. Fritz Foley, and James R. Hines Jr., "Foreign direct investment in a world of multiple taxes," *Journal of Public Economics*, December 2004, 88 (12), 2727-2744; Shafik Hebous, Martin Ruf, and Alfons J. Weichenrieder, "The effects of taxation on the location decisions of multinational firms: M&A versus greenfield investments, *National Tax Journal*, September 2011, 64 (3), 817-838; and Johannes Becker, Clemens Fuest, and Nadine Riedel, "Corporate tax effects on the quality and quantity of FDI, *European Economic Review*, 2012, 56 (8), 1495-1511.

profits, and use financial or other means to reallocate taxable income to an affiliate located in a zero-tax location. It would be a mistake to let tax rates influence where pretax profits are actually earned, since doing so reduces the amount that is ultimately destined to be reported as income by the affiliate in a tax haven. In fact, this is not what firms do: the evidence consistently indicates that multinational firms tend to locate greater real business activity in countries with low tax rates than would otherwise be expected. This is consistent with maximizing after-tax profits only if it is costly and difficult to shift pretax income.

Second, there is evidence from the limited use of tax haven affiliates by multinational corporations. The tax havens are the lowest tax-rate countries, so are the destinations of choice, if one has unfettered choice, for profits to be reallocated from high-tax countries. Despite the potential appeal of using tax haven affiliates for this purpose, slightly fewer than 50 percent of large U.S. multinational firms had any tax haven affiliates in 2014, the last year for which these high quality data are available.[10] Similar recent evidence is available from a study of the country-by-country income reports of large German multinational firms, which reveal that just 8.7 percent of the global incomes of these companies are reported in all tax haven countries taken together.[11]

It is striking that fewer than half of U.S. multinational firms had any tax haven operations at all in 2014. The majority of U.S. multinational firms obviously did not reallocate taxable income to tax havens, as they had no method of doing so, given the absence of legal presence there. Similarly, even if all of the tax haven income of large German multinational firms were actually earned in Germany and misattributed to tax haven affiliates – which obviously is a vast exaggeration – the total magnitude of the resulting base erosion would be 8.7 percent. The most noteworthy feature of this evidence is that there is nothing that prevents a U.S. or German

[10] C. Fritz Foley, James R. Hines Jr., Raymond J. Mataloni Jr., and David Wessel, "Multinational activity in the modern world," in C. Fritz Foley, James R. Hines Jr., and David Wessel eds., *Global Goliaths: Multinational Corporations in the 21st Century Economy* (Washington, DC: Brookings, 2021), 1-32, indicates that in 2014, 49.8 percent of U.S. multinationals had one or more tax haven affiliates. In other years for which there are available data – 1982, 1989, 1994, 1999, 2004, and 2009 – the fraction of U.S. multinational firms with tax haven affiliates varied between 33.9 percent and 42.4 percent. While these data are comprehensive, they exclude smaller multinational firms, and since the smallest firms are the least likely to have tax haven affiliates, it follows that these percentages if anything overstate the fraction of U.S. multinational firms with tax haven affiliates.

[11] Clemens Fuest, Felix Hugger, and Florian Neumeier, "Corporate profit shifting and the role of tax havens: Evidence from German country-by-country reporting data," *Journal of Economic Behavior and Organization*,

multinational firm from establishing a tax haven affiliate. The reason not to do so is that it is not worth it – and the reason it is not worth it is that it is too difficult or costly to reallocate taxable income from high-tax countries to tax haven countries. Since the same logic applies even to the less than half of U.S. multinational firms that do have tax haven operations, evidence of the limited use of tax haven operations by U.S. and German companies immediately implies that the problem of tax-motivated income reallocation is modest in magnitude.

The 2017 U.S. tax legislation significantly changed incentives facing U.S. firms, due to the reduction in the statutory corporate tax rate from 35% to 21%, the move to a territorial system, the introduction of GILTI, BEAT, FDII, and numerous other provisions. One might well ask, and these hearings do, whether this new tax environment creates incentives to offshore jobs and profits.

Concerning jobs, by lowering tax rates and making the U.S. tax environment more competitive with other countries, the 2017 legislation clearly encouraged job retention and creation in the United States. This is true of many components of the 2017 provisions, including not only the lower tax rates, but also the move to exempting (non-GILTI) foreign profits from U.S. taxation. How can it be that exempting foreign profits from U.S. taxation increases incentives for U.S. job retention and U.S. job creation? – it is because this exemption makes it possible for U.S. firms to operate on a more competitive basis relative to foreign firms. The 2017 legislation was directed at the problem, identified by prior Congresses, the Obama administration, and the Trump administration, that U.S. taxation of foreign profits indirectly discouraged economic activity in the United States by making it more difficult for U.S. firms to compete in foreign markets, and thereby reducing their productivity. The changes introduced in 2017 were designed to address that issue.

A concern sometimes raised with the post-2017 GILTI regime is that the definition of income subject to tax may indirectly encourage U.S. firms to locate tangible capital outside the United States, and thereby encourage offshoring of jobs. Specifically, in calculating GILTI, taxpayers subtract their net deemed tangible incomes, which are 10% of depreciable tangible business assets (minus certain interest expense). This method of calculating GILTI would seem

February 2022, 194, 454-477. The data come from German companies with annual aggregate revenues exceeding to encourage U.S. firms to hold tangible property abroad, since the first 10% of the return on such investments would be exempt from GILTI. And firms with greater amounts of foreign tangible property are apt to employ more foreign workers, which raises the possibility of job offshoring.

A more thorough analysis comes to a very different conclusion. The exclusion of 10% returns on tangible capital serves the function of maintaining the competitiveness of U.S. firms in global markets, as they compete for business against domestic firms in foreign markets and their competitors from Japan, Britain, Germany, Canada, and elsewhere. The same logic that says that the exclusion of net deemed tangible income under GILTI encourages job offshoring also says that any deviation from worldwide U.S. taxation without deferral encourages job offshoring, regardless the policies of other countries. The mistake in this reasoning is that it fails to take account the actions of foreign companies, the incentives that they face, and the resulting effect on asset prices and product prices in foreign markets. Most foreign direct investment consists of one company buying another, and the exclusion of net deemed tangible income makes these acquisitions feasible on a competitive basis for U.S. firms acquiring foreign companies with largely tangible assets.[12]

Another feature of the 2017 legislation is that it significantly reduced incentives to report profits outside the United States. Of course the reduction in the statutory corporate tax rate to 21% did much of this, but many of the other aspects of the legislation, including the GILTI, BEAT, and FDII provisions, all point in the same direction. As matters currently stand the United States is significantly better positioned to prevent profits from being offshored.[13] That

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750 million euros.

[12] Due to the arrival of the Covid-19 pandemic shortly after enactment of the 2017 tax legislation, we have only very limited evidence of the impact of these tax changes on corporate performance. A recent study of post-2017 foreign acquisitions by U.S. firms, Harald J. Amberger and Leslie Robinson, “The initial effect of U.S. tax reform on foreign acquisitions,” *Review of Accounting Studies*, forthcoming, finds changes in the patterns of foreign acquisitions by U.S. firms, concluding that “Results from our empirical analyses are consistent with the TCJA prompting fewer but more value-enhancing, less tax-motivated foreign acquisitions by U.S. firms.”

[13] Again, the limited number of years of available data, together with the Covid-19 pandemic, makes it difficult directly to assess the impact of the 2017 legislation on profit reporting by U.S. companies. A recent accounting study, Scott D. Dyreng, Fabio B. Gaertner, Jeffrey L. Hoopes, and Mary E. Vernon, The effect of US tax reform on the taxation of US firms’ domestic and foreign earnings,” *Contemporary Accounting Research*, Fall 2023, 40 (3), 1881-1908, offers evidence that tax rates on the U.S. activities of U.S.-based companies fell significantly after 2017, but that total (U.S. plus foreign) taxes on their foreign activities remained largely unchanged. Javier Garcia-Bernardo, Petr Janský, and Gabriel Zucman, “Did the Tax Cuts and Jobs Act reduce profit shifting by US multinational companies?” NBER Working Paper No. 30086, May 2022, attempts to identify the impact of the 2017

said, of course the U.S. tax authorities must remain vigilant, as even today many U.S. taxpayers would benefit to a certain degree from shifting profits, if they could, to zero-tax foreign locations. GILTI and the other new provisions reduce this incentive, and as I noted earlier, the unwillingness of most U.S. multinationals to establish any affiliates in tax haven locations even when the U.S. tax rate was 35% suggests that the magnitude of the problem of U.S. firms shifting profits to zero-tax locations can be, and often is, greatly exaggerated.

The fact that a problem is modest in magnitude does not mean that it should not be addressed. The United States should enforce its tax laws and protect its tax base. However, when it comes to designing policy, we should do so with a clear sense of the scope of current problems and priorities and objectives for reform. It is in the country's interest, and more specifically in the interest of U.S. workers, to have a competitive tax system that supports the economy while collecting the revenue that we need. This problem is difficult enough without exaggerating any of its components. Wise design of U.S. policy has the potential to position the country for robust economic growth, and U.S. economic fortunes depend on it.

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legislation, concluding that while the 2017 legislation reduced profit shifting, its impact was modest in magnitude. Unfortunately, this study uses an inappropriate measure of foreign income, profit-like return, which is attributed to foreign locations based on proxies that are well known (e.g., James R. Hines Jr., "Income misattribution under formula apportionment, *European Economic Review*, January 2010, 54 (1), 108-120) to be highly inaccurate.