Is Corporate Integration A Good Idea?

Featuring Reuven S. Avi-Yonah, David Burton, Curtis Dubay, David S. Miller, Steven T. Miller, Stuart L. Rosow, Eric Toder, Alan D. Viard, and Richard A. Westin

In this installment of the Star Forum, experts weigh in on the following question:

Senate Finance Committee Chair Orrin G. Hatch, R-Utah, has announced that he is drafting a proposal in favor of corporate integration. Do you think that corporate integration is a good idea? What factors should Hatch consider as he is drafting his proposal?

If you would like to participate in future Star Forums or suggest topics for consideration, please email us at thestarforum@taxanalysts.org.


Reuven S. Avi-Yonah

Reuven S. Avi-Yonah — University of Michigan

In general, I believe that integration is advisable as a way of addressing the biases of the classical system against using the corporate form, in favor of retaining earnings, and in favor of debt financing.

In terms of the bias against the corporate form, dividend deduction is as good as dividend exemption or imputation. In all three cases, there is only one level of tax imposed, at the shareholder level for dividend deduction or imputation, and at the corporate level for dividend exemption. If the top shareholder tax rate is higher than the corporate tax rate, both imputation and dividend deduction are superior to dividend exemption because with dividend exemption, noncorporate investments are taxed at a higher rate than corporate ones (so that the bias is reversed).

One special case that should be mentioned is corporate-level preferences. Most commentators agree that corporate preferences (that reduce the corporate rate below 35 percent) should not be passed through to shareholders because, in accordance with the regulatory goal of the corporate tax, they are intended to influence management behavior and not to benefit shareholders. But in both dividend exemption and imputation, it is necessary to construct complicated mechanisms to prevent corporate preferences from being passed to shareholders, while in the case of dividend deduction, this happens automatically because if there is no corporate income, the deduction disappears.

The comprehensive business income tax (CBIT) and its progeny do a better job at eliminating the bias against the corporate form than dividend exemption or imputation, because both of those leave the corporate tax completely intact but apply it only to publicly traded C corporations. Dividend deduction reduces the bias because the corporate tax only applies to retained earnings, but does not eliminate it as thoroughly as CBIT and its progeny. However, CBIT and its progeny tax nonpublic business entities unnecessarily. Moreover, I am not sure this bias is important, for three reasons. First, the empirical literature suggests that it is not very large. Second, one reason for that finding may be that to see a bias against the corporate form, one must assume that the corporate tax falls on shareholders, which is a doubtful proposition. If the corporate tax is shifted to labor or consumers or both, there is in fact a bias in favor of corporations because the dividend tax can be deferred whereas passthrough entities are taxed currently. Third, another reason for the empirical finding is that it is not clear that publicly traded entities are substitutes for private business entities. That is, there may be compelling nontax reasons to access the public equity markets that overcome any tax bias.

The bias against retention is only partially addressed by dividend exemption and imputation because distribution decisions are taken by managers who may not care about the shareholder tax. There is little evidence that the 2003 dividend exemption increased dividend distributions. Dividend deduction would create a powerful incentive for management to distribute earnings, we would argue. In countries where there is a rate differential between retained and distributed earnings, this was an effective way of encouraging distributions. CBIT and its progeny are also inferior to dividend deduction from this perspective because they exempt distributions at the recipient level, which we believe is in many cases not as good a way of encouraging distributions than to allow a full deduction at the corporate level.

Finally, neither imputation nor dividend exemption do a good job on the bias against equity and in favor of debt because they both tax dividends at the corporate level and interest at the investor level. That creates debt-equity parity only when the rates are the same and when the recipients of interest payments are fully taxable, which is rarely the case. Dividend deduction, on the other hand, creates true debt-equity parity.

CBIT and its progeny create debt-equity parity but at a heavy price: They disallow the deduction for interest even though interest is a legitimate cost of doing business. For financial institutions in particular, it seems inappropriate in an income tax context to disallow the interest deduction and effectively tax them on gross interest income. Dividend deduction achieves the same goal but without the inappropriate limits on interest deductions.

To sum up, I believe that dividend deduction is superior to both imputation and dividend exemption on the second and third biases (in favor of retentions and debt). Dividend deduction is also superior to CBIT and its progeny on the bias in favor of retentions and is equal to it on the debt-equity issue (but without CBIT's inappropriate limitations on interest deductibility). Dividend deduction is also as good as imputation and better than dividend exemption on the first bias (in favor of noncorporate businesses). It is not as good as CBIT and its progeny on this front, but that seems a small price to pay in exchange for avoiding a dramatic, and in our view, unnecessary expansion of entity taxation.


Curtis Dubay

Curtis Dubay and David Burton — The Heritage Foundation

Senate Finance Committee Chair Orrin G. Hatch, R-Utah, will soon release a plan to partially integrate the U.S. corporate tax system. The United States has the highest corporate tax rate in the developed world. It also has high personal income tax rates, ranking 16th out of 34 OECD countries in 2015. High tax rates — particularly the high corporate tax rate — are hurting investment in the United States and are a cause of U.S. businesses inverting their headquarters to foreign locales. Hatch is right to pursue a policy that could help fix that pressing issue.

Hatch's plan will reportedly integrate corporate and individual taxes by allowing corporations to deduct their dividend payments to shareholders. The dividend income would be taxable to shareholders at normal income tax rates; hence the corporate and individual systems would be integrated — at least on corporate income that businesses pay out. Retained earnings will presumably still face the corporate income tax.


David Burton

Integration should help partially alleviate the problems caused by the high corporate tax rate because it would reduce the combined rate on corporate income that is paid out as dividends.

The return on equity investment is in part double-taxed because businesses cannot deduct dividend payments under current law. Income that corporations pay out is therefore taxed at the business level and again at the individual level by the dividends tax. The return on equity investment is further double-taxed because retained earnings face both the corporate-level tax and then a tax on capital gains attributable to those retained earnings at the individual level, a bug that Hatch's plan would retain.

The combined federal tax rate on corporate income paid out as dividends is more than 50 percent when including the 35 percent federal corporate tax rate and the 23.8 percent dividends tax rate. The high rate suppresses investment across the economy. Less investment means fewer jobs and lower wages for U.S. workers of all income levels.

Hatch's integration plan would reduce the combined rate on corporate income paid out as dividends by removing a layer of taxation. If dividends are taxed at normal individual income tax rates, the top rate would be 39.6 percent as long as "payroll" taxes and the Obamacare surtaxes don't apply. The lower rate would boost investment, which would help U.S. workers and reduce the motivation for businesses to invert.

However, like with any tax plan, the devil is in the details. Hatch will reportedly make his plan revenue neutral. Although it has not been released, reports suggest that Hatch would apply a withholding tax of 35 percent on interest income to pay for eliminating double taxation of equity.

The withholding tax would apply double taxation to debt (unless interest income recipients were accorded a credit on their individual returns for the withheld tax). The conventional wisdom is that debt financing is tax-favored compared with equity financing, and that is true. But it is not because debt has preferential treatment. Interest income is generally taxed to lenders, and interest expense is deductible for borrowers. That creates a symmetry that removes tax from the lend-borrow decision and restores neutrality to the tax code. Stated differently, if interest income is includible in taxable receipts, interest should be deductible whether your preferred definition of income is the Haig-Simons or Fisher-Ture definition of income. Debt is favored in relation to equity because equity is double-taxed.

Applying double taxation to debt to pay for the reduction of double taxation on equity will decrease the benefit of integration. At worst it could wash out the benefit because the weighted average cost of corporate capital will not decline materially. At best there will be a slight gain to the economy because of marginally improved efficiency from an improved allocation of capital.

The Finance Committee would be better off pursuing an integration plan that reduces corporate taxes. There is room for a tax cut today, especially on the corporate side of the code. Congress should acknowledge that the United States is an outlier and that the U.S. tax system is uncompetitive.

Hatch's plan would leave passthrough businesses paying a top marginal rate of almost 44 percent, which is hurting their ability to expand and prosper. Reducing their marginal tax rate should be another focus of Congress. Further, Congress should focus on fully eliminating the double taxation of corporate income by abolishing the capital gains tax and by expensing capital investment, or by fully integrating the business system with the individual system.


Steven T. Miller

Steven T. Miller — Alliantgroup

Let's start with a couple of good (if tired) truisms. First, the same dollar should not be taxed twice, and second, there should be some policy rationale for how we impose tax on a given form of business and its owners. Thus, sound tax policy in today's environment of numerous choices of business entities offering similar liability protections provides no persuasive reason for double taxation for C corporations and essentially a single level of tax for virtually every other business form. So isn't corporate integration a good idea? The answer is "Sure; why not?" But the world turns on design and transition. And of course, as rapper Fat Joe said best (even before he tangled with the IRS): It's all about the money money. That is, just who is going to pay for improved tax policy? Because I doubt that the pension plans and university endowments will line up to fund integration.

Moving to full or partial corporate tax integration will affect global competitiveness, government revenue, and perceived fairness of (and actual fairness to) various segments of the American public. That's all well and good, but I will focus my limited space on one issue that everyone discusses — revenue generation — and as a former IRS guy, two issues that oftentimes are not as prevalent in the corporate integration discussion: the administrability of such a system and what may be needed for transition.

A clear position on revenue generation (or neutrality) and the distribution of tax of the system is essential up front. Prior analyses by Treasury (such as the excellent 1992 Treasury corporate integration study) and others show that there can be significant revenue estimate differences among integration proposals. Those differences are critical regardless of whether the overall legislative proposal attempts to be revenue neutral, because the selection will affect either the ultimate revenue loss to the fisc or the required revenue raisers needed to achieve a full or the desired offset. I believe a clear-eyed discussion of where we want to end up is the first factor that Hatch and others should consider as they draft a proposal.

I would also like to see intelligent and inclusive discussion on other points. While all the focus is likely to be on the significant economic, investment, political, competitiveness, and cost considerations, drafters should not squeeze out the less interesting but critically important tax administration challenges or benefits of the proposals. Each integration option potentially offers a world dramatically different from the status quo, and that will require new record keeping and reporting, new IRS forms, and new IRS examination challenges and procedures. Mundane things such as tracking corporate tax attributes to shareholders and how to treat shareholder ownership changes must be considered in the grand design. The IRS's ability to efficiently and effectively conduct C corporation audits must also be considered. Depending on the alternative selected, Congress might consider enacting audit procedures to minimize the compliance burden on taxpayers. That might or might not look like the new partnership audit rules. My point is that serious consideration should be given to those matters, and that Treasury and the IRS should be at the table in those deliberations.

Second, a broad and forgiving transition is so very important and must be a meaningful part of any discussion of a proposal because of economics, political calculations, and burden. The mechanics required to implement the new regime, once adopted, cannot be given short shrift.


David S. Miller

David S. Miller and Stuart L. Rosow — Proskauer Rose LLP

While integration may be a laudable policy goal, we do not believe that integration should be the principal goal of corporate tax reform. Focusing on integration would distract the debate from more pressing issues and would introduce a level of complexity that should be avoided.


Stuart L. Rosow

The principal goal of corporate tax reform should be to reduce the corporate statutory "headline" rate without affecting small business owners or low- and middle-income taxpayers, and without increasing the national debt. To generate the necessary revenue to reduce the corporate tax rate, we would impose mark-to-market taxation on the publicly traded stocks and securities (and derivatives of those stocks and securities) of the highest-earning and wealthiest individuals, and an excise tax on nonprofit organizations (including pension plans and endowments) equal to the tax that they would indirectly save from the corporate tax reduction. Finally, we would convert all non-publicly-traded U.S. corporations into flow-through entities on a tax-free basis and exempt them from corporate tax. Our proposal is revenue neutral: All revenue generated by it would be used to reduce the corporate tax rate for publicly traded U.S. companies and eliminate it for private companies.

In substance, our proposal achieves integration because each dollar of corporate tax reduction represents one less dollar of double tax. That form of integration is preferable to others because it will have the added benefit of reducing the corporate income tax rate, which will encourage investment in U.S. corporations. If the U.S. corporate tax rate is lower than the tax rates of its trading partners, U.S. corporations will become acquirers rather than inverters. We do not believe that other forms of integration would have that effect.

We also believe that our proposal represents a reasonable compromise for both political parties. By requiring high-income individuals to mark to market their investments, it would address income inequality and ensure that entrepreneurs and investors pay tax on their economic income, in the same way that employees and fee earners do. By requiring every dollar of new revenue to be used to reduce the corporate tax rate, our proposal would encourage investment without increasing the nation's debt or expanding the size of government. Because the mark-to-market tax would be imposed on publicly traded stocks and securities and derivatives only, it would not affect any small business owner. Because it would apply only to the highest-earning and wealthiest individuals, it would not affect low- or middle-income families.


Eric Toder

Eric Toder — Urban-Brookings Tax Policy Center

The goal of corporate integration is to tax all distributed income once by eliminating the double taxation of dividends. Doing so would remove the current tax biases that favor debt over equity finance, retained earnings over dividends, and companies organized as passthrough businesses (partnerships, limited liability companies, and S corporations) over ones organized as C corporations.

In theory, integration plans can apply the single level of tax on dividends at either the corporate or individual level. In practice, integration systems in other countries and under discussion in the United States retain the tax burden at the corporate level even when it may look as if they do not. First, a little background.

European countries have repealed corporate integration because of EU regulations and have instead reduced their corporate rates. Australia and New Zealand retain "imputation credit" schemes similar to the prior integration systems in Europe. Companies pay corporate income tax, but domestic shareholders receive a credit for the corporate income tax attributable to any dividends they receive. Those dividends remain taxable, with relief only allowed for individual, domestic shareholders.

The proposal under consideration by Hatch would instead allow corporations to deduct dividends they pay, substantially reducing corporate-level taxes. Corporations would withhold tax from dividend payments to their shareholders. Taxable shareholders would pay tax at ordinary rates on their (pre-withholding) dividend income, but could claim a credit against the withholding tax, just as individuals currently claim a credit for withholding on their wages.

Here's why those two systems have similar economic effects: In both cases, corporations would remit a tax on the profits they pay out as dividends, either as a final corporate income tax or as a withholding tax on dividends. (Corporations would continue to pay a corporate-level tax on retained earnings.) Taxable U.S.-resident individual shareholders could claim a refund for the tax that corporations remit, but other shareholders could not. The only difference is that the Hatch plan would label the corporate payment as a withholding tax paid by individuals, while the Australia and New Zealand systems label the same levy as a corporate income tax.

So in what sense do both schemes retain tax on corporations instead of shareholders? The main reason is that the relief from the corporate tax goes only to a relatively small subset of shareholders. As my colleagues Steven M. Rosenthal and Lydia Austin have documented, taxable individual shareholders hold less than a quarter of equities issued by U.S. corporations (''The Dwindling Share of U.S. Corporate Stock,'' *Tax Notes*, May 16, 2016, p. 923). The remaining shares are held by qualified retirement plans (including IRAs and 401(k) plans), tax-exempt entities, or foreign shareholders.

By retaining a tax on corporations, while exempting most shareholders, those two versions of corporate integration would have little effect on the availability or cost of funds to corporations. Companies would still need to raise substantial capital from investors ineligible to claim the credits. Instead, integration would raise after-tax returns to individual U.S. shareholders while providing little benefit for corporate investment. And, because most of the corporate tax burden would be retained, integration would do little to reduce incentives for U.S. multinationals to shift reported profits to low-tax jurisdictions or to engage in inversion transactions.

In a coming paper, Alan D. Viard of the American Enterprise Institute and I propose shifting the tax burden from the corporation to the shareholder level. We argue that individual residence is a better tax base than either the source of corporate income or corporate residence because it is much more costly for individuals to change residence to escape the tax than for corporations to change their reporting of income or place of incorporation. In contrast, integration, while appearing to shift the tax to the shareholder level, in reality retains the economic incidence at the company level. Therefore, in spite of some other benefits, it fails to address the worst problems of taxing corporate income.


Alan D. Viard

Alan D. Viard — American Enterprise Institute

Corporate integration is a good idea. In a closed economy, it can promote economic efficiency by reducing or eliminating the tax penalty that equity-financed corporate investment now faces, relative to debt-financed corporate investment and noncorporate investment.

Corporate integration is even more important in an open economy. A good integration plan should eliminate disincentives for Americans to invest in the United States. American individuals should be subject to the same tax treatment on investment in the United States as they are subject to on investment abroad. To achieve that goal, any corporate-level tax burden on investment in the United States should be offset at the shareholder level.

It is also vital that integration plans provide appropriate treatment of foreigners' investments in the United States. A good plan should reduce disincentives for foreigners to invest in the United States while continuing to collect some revenue from them. Integration should therefore be accompanied by corporate tax rate reduction.

The proper tax treatment of foreigners' investment in the United States reflects a delicate balance. U.S. tax policy should assign little or no weight to the well-being of foreign investors. That factor, in isolation, suggests that foreigners should be taxed more heavily than Americans. But, there is an offsetting consideration. The United States lacks the power to tax foreigners' foreign investments, which limits the extent to which it is useful to tax their U.S. investments. If the tax rate on foreigners' U.S. investments is too high, they will avoid the tax by switching to foreign investments.

The appropriate tax rate on foreigners' U.S. investments may be quite different from the tax rate on Americans' investments. Moreover, the appropriate rate to apply to foreign investors may vary across different U.S. investments. Higher tax rates are appropriate for those U.S. investments for which there are no foreign investments with similar risks and returns. When there are no good substitute foreign investments, it is harder for foreign investors to switch away from U.S. investments, and there is greater leeway to tax those investors.

In line with current tax policy, there should generally be little or no U.S. tax on foreign individuals' holdings of U.S. debt, because foreign debt instruments with similar risks and returns are likely to be available. However, some U.S. tax should be imposed on foreigners' equity investments in the United States. The United States has unique attributes as a business location, allowing businesses to earn returns here that cannot be replicated abroad. It is therefore more difficult for foreigners to switch away from U.S. equity investments than it is for them to switch away from U.S. debt.

There is no easy way to pin down the ideal tax rate on foreigners' U.S. equity investments. But the 35 percent tax rate now imposed through the corporate income tax is surely too high, creating a severe disincentive for foreigners to invest in the United States. To reduce that disincentive, tax reform should lower the tax burden on foreigners investing in the United States.

Eric Toder and I have developed a proposal intended to achieve the objectives outlined above. American shareholders would receive imputation credits for corporate income taxes, offsetting the corporate tax's disincentive for investment in the United States. American shareholders would be taxed at ordinary income tax rates on dividends and marked-to-market capital gains from U.S. and foreign corporate stock.

The corporate tax rate would be lowered to 15 percent. The lower tax rate would dramatically reduce the disincentive for foreigners to invest in the United States while continuing to collect some revenue from them. Foreign shareholders would not receive imputation credits because providing those credits would negate the corporate tax's purpose of collecting revenue from foreign investors.

Our plan would not impose withholding taxes on foreign shareholders to recapture their gains from the corporate tax rate reduction. Because withholding taxes on foreign shareholders would penalize investment in the United States in the same manner as the corporate income tax, imposing those taxes would negate the purpose of the corporate tax rate reduction.

A properly designed corporate integration plan would make the United States a more attractive investment location for both Americans and foreigners.


Richard A. Westin

Richard A. Westin, Professor Emeritus — University of Kentucky Law School

This old saw of corporate tax integration has been around forever and has attracted a variety of proposals. George W. Bush, however, cut through it and amazed the tax world by simply reducing the rate of taxation on most dividends to those levels enjoyed by capital gains earned by individual investors. No law professor would ever have come up with that, but the double tax still remains, albeit in less virulent form.

Now Hatch suggests we should allow deductions for dividends paid so as to eliminate the corporate double tax. The basic idea of equating dividends with interest by making both deductible to the payer, and both exposed to income taxes in the hands of the recipients, is not new and has common-sense appeal; if we were starting with a clean slate, many astute observers would readily agree with it. Equating dividends with interest simplifies the code, should do away with the audit-sensitive debt-equity distinction, and would reduce the economically distortive, tax-driven appeal of putting too much leverage on corporate books. It also has the effect of explicitly shifting the corporate income tax away from the corporation and onto shareholders where — if you accept the economists' dogma that corporations do not pay income taxes anyway — it more rationally belongs. Those are good things. In addition, it has the intellectual appeal of symmetry.

The trouble is, it is very late in the game. A rule equating dividends with interest would be inserted into a complicated tax framework that compels one to consider technical questions such as, should the favorable tax rate on dividends that Bush passed stick around? Presumably not, or else interest income should enjoy some special largesse, and there is no reason for that.

What about restrictions on interest expense deductions found in sections such as section 163(j) for stripping domestic income and the portfolio interest exemption truck hole? Do they apply to dividends? Should they? There is plenty of fodder for technicians here.

Hatch's proper questions should be (1) what level of revenue losses — if any — would result from integration? (2) will his proposal really help to reverse the deindustrialization of America? and (3) what should we do about windfalls and making up any revenue losses?

On an unkind note, this proposal, if enacted, may make Hatch a sanctimonious lion of the country club for the moment, but in the long term it could represent wasted legislative energy, unfairness, revenue loss, and even undermine efforts to recover our industrial footing if it is oversold. In the end, Hatch's reputation stands to be damaged, but in the interim, he will make himself popular with a large swath of businesses and associated lobbies known for their generosity. On the other hand, we suffer from national amnesia and are likely to forget who pushed for the legislation when the chickens come home to roost.

I would point to an interesting article in *The Economist* that observes that the U.S. stock market is basically slack, earnings reports are not good, and major corporations are running out of tricks to support their share prices of, for example, buybacks. The effect of deducting dividends will obviously be to increase after-tax earnings per share, thereby driving up overall stock prices and increasing executive compensation by legislation. That is a short-term effect on capital markets with a propensity to offer windfalls to individual investors. Of course, not all publicly traded companies will benefit equally. High-tech start-ups and younger companies with no history of dividend payments, or stingy dividends, will not benefit because the deduction is of little value except to the extent that the companies replace debt with equity that pays assured dividends. Companies with histories of paying dividends that they feel obligated to protect, such as Coca-Cola, stand to benefit considerably. Should the proposal be subject to a phase-in to smooth the transaction? Would that really help if it is flawed in the first place?

Revenue Losses

Our representatives in Congress love to give away tax money as much as they hate raising taxes. The graveyard of proposals for environmental taxes and even raising the tiny highway excise tax in the face of rotting highways is clear proof of that. This is one more revenue loser. How much revenue will corporate integration cost? It is impossible to say, but my Google searches suggest something on the order of $100 billion per year, or $1 trillion over a decade. That is the starting point, and it is a big number.

There is a simple scenario to show the potential revenue Hatch's proposal will stimulate:

> Individual is in the 33 percent tax bracket and owns all of OPCO, a small C corporation that makes $150,000 per year in taxable income. It is in the 39 percent bracket. It pays Individual a $50,000 dividend, his only dividend income, which Individual reports at the 15 percent rate. The deduction reduces federal receipts by $19,500 (that is, 39 percent of $50,000) and increases them by $7,500 (that is, 15 percent of $50,000). The fisc loses $12,000. Candy from a baby.

Now the fun begins. From what I have read, most dividends are not taxed at all because they go to exempt entities. Of the remainder, most are taxed as qualified dividends resulting in favorable rates to the recipients. Given that the proposal would wash away the "double tax" issue, it is coherent to repeal the qualified dividends exception, at least for dividends from domestic sources. If the foreign-source dividends exceptions continued, it would only serve to drive factories offshore, so should that exception be repealed too? As for the tax-exempt sector, the apparent solution is to impose a flat withholding tax on dividends paid to that sector. If so, at what rate? Needless to say, a proposal for withholding should trigger a great political outcry from the world of exempt organizations.

How one feels about revenue losses depends too much on party affiliation. We need to look our national financial picture in the eye. What looks back at us is frightening to behold, and the scary calculations from serious entities like the Congressional Budget Office and the Office of Management and Budget never even touch the really dark question of what costs global warming will bring. If the United States were flourishing, the revenue loss might be acceptable. Now we need to act more like Ebenezer Scrooge, watching our pennies.

Conclusion

Hatch's proposal must have a strong economic rationale to win a reasonable person's approval. Is the rationale there?

Deindustrialization

In my view, the important issues in corporate income taxation revolve around deindustrialization because only through reversing that process can we have the revenue and social stability we need to provide the country with an economically attractive future. That means we must be truly thoughtful and take a coordinated approach to policymaking across topics. My favorite example is Ireland's industrial policy to greatly reduce corporate taxes and sharply improve the quality of its educational system, and thus its labor force. The result, according to my Irish friends, was a dramatic increase in national prosperity. Perhaps it is blarney, but it reminds us that this country can pull itself together in a crisis and that there is such a thing as broad economic planning.

Back to deindustrialization. Crisp numbers are hard to come by, but it is clear that we have lost tens of thousands of factories and millions of jobs to overseas competition in recent decades, and a great deal of those losses are attributable to U.S. corporations shifting their factories to lower-tax jurisdictions. All this translates to private suffering, squalor, and diminished tax revenue. It is a serious situation, and our choice of tax structures should not encourage relocation of good jobs to overseas locations when in fact it does, and those lower tax nodes in turn encourage craftily shifting undue amounts of income to them to save further taxes. For those who want to follow up on this, Harry Grubert, senior research economist in Treasury's Office of Tax Analysis, has done informative work.

I recommend the following thought experiment: If you were a board member of a footloose multinational industrial corporation, would Hatch's proposal tilt you strongly in favor of establishing your next factory in this country?

Personally, I doubt it.

That leads to the next mental experiment: Are the economic benefits of the proposed change powerful enough to justify the revenue losses?

I leave that to the reader and the Finance Committee.

Windfalls and Revenue Recovery

The Finance Committee should of course consider the distributive effect of the proposed change. Who wins? Is it just a short-term effect? Who is likely to suffer from the long-term revenue losses? How can we recover those losses? What deadwood can we trim from the code to raise the necessary offsetting revenue? Should we increase capital gains rates or perhaps lengthen minimum holding periods to claw back the fortuitous gains? Should the proposal be tied to revenue recovery amendments?

Another mental experiment: What are the odds the Finance Committee will even take a serious look at this explosive topic? ■

IN THE WORKS

A look ahead to planned commentary and analysis.

A response to Dan Bucks's critique of scholarship in U.S. public finance (*State Tax Notes*)

Robert Tannenwald challenges Dan Bucks's critique on most of U.S. public finance scholarship offered, arguing that a public finance scholarship does address a wide array of policy issues, including those that Bucks believes have gotten short shrift.

Funding down, tuition up: States fail public colleges (*State Tax Notes*)

Michael Mitchell contends that state cuts in higher education funding have not only increased tuition and reduced faculty and course offerings, but may have ripple effects on society as a whole in the form of a less qualified workforce.

Profit-shifting structures: Making ethical judgments objectively (*Tax Notes*)

Jeffery Kadet and David Koontz explore how multinational corporations can ethically minimize taxes and maximize profits, including preparing reports that show income across jurisdictions that are verifiable by independent persons.

Risks and abuses of crowdfunding for charity (*Tax Notes*)

Brandee Hancock and Monika Turek explain how crowdfunding donations are treated for donors and donees from a tax perspective.

Japan's 2016 tax reforms (*Tax Notes International*)

Paul Previtera and Mary Kathleen Allison review the extensive changes to Japan's tax rules introduced as part of its 2016 reforms.