REP. ESTES INTRODUCES *the*

U.S. INNOVATION & GLOBAL COMPETITIVENESS *Act*

FACT SHEET

Why is this legislation important/necessary?

- The TCJA created a new and more competitive domestic tax code, along with a new framework for the international tax system. The creation of BEAT, GILTI, and FDII (now NCTI, FDDEI) changed how companies, both inbound and outbound, operated globally and in the U.S. The results were clear; the systems were very successful in driving investment back into the U.S.
- The Working Families Tax Cut further cemented this successful system by making BEAT, NCTI, and FDDEI permanent. This permanency in the international system, combined with the permanent competitive domestic tax code, gives certainty to the business community that the U.S. is a secure and growing investment opportunity.
- Since Republicans and President Trump created the international system nearly a decade ago, the world economy has changed. The U.S. is now the best place in the world to build a business. Our international system needs to further recognize and support that.
- International tax reform has long been a domain of the Senate, and with the departures of some Senators who have led in this space previously, the time is right to lay out the House's position on what's next.
- **This legislation is the first step in laying out my vision and the House Republican views on the future of international tax policy.**

Why are we reforming BEAT the way we are?

- BEAT has been a very successful policy in deterring the most egregious base erosion schemes that had been happening for years before TCJA. It is designed to be a broad and strong deterrent.
- We live in a global economy where companies make payments to other countries in the ordinary course of business. These payments are routine and are not necessarily base eroding. In fact, many of these payments indirectly lead to increased investment and growth in the U.S. Yet, they are captured in BEAT.
- Additionally, U.S companies are already paying taxes on income and payments earned overseas, through NCTI/Subpart F etc. These are also captured in BEAT.
- BEAT is intended to prevent base eroding payments and not to limit smart investments in the U.S and global economy. **The reforms we are proposing make BEAT more targeted towards the worst-of-the-worst tax schemes and recognize that other payments are not necessarily base eroding or abusive.**

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The reforms to BEAT we are proposing

- Exempting payments already subject to U.S. tax.
  - BEAT is intended to capture base erosion payments, payments that are avoiding U.S. tax. Payments and other income that are subject to NCTI, Subpart F, and other U.S. taxes are obviously not avoiding U.S. tax. Our bill would make it so these are not subject to BEAT.
- Allowing General Business Credits to count towards BEAT liability and not counting U.S. tax credits toward BEAT calculations.
  - Companies that incur a BEAT liability but have GBCs can't currently use them against BEAT. Our bill would allow that.
  - Additionally, taking a domestic U.S. tax credit will no longer impact your liability for BEAT. U.S. tax credits will no longer count against you.
- A High-Tax Exemption for certain payments
  - BEAT was intended to capture payments that are eroding the U.S. tax base by moving payments to low or no tax jurisdictions. Many countries have effective tax rates that are comparable or above the U.S. corporate headline rate. Including these payments in BEAT has a significant impact on inbound investment in the U.S.
  - Payments to related parties subject to a foreign effective rate of at least 18.9% would no longer be treated as base-erosion payments, except where the payor is managed in a jurisdiction that imposes a discriminatory tax.

Why did you include an section 899-type prohibition on countries with discriminatory taxes to this High-Tax Exemption? This is punishing inbound companies.

- The High-Tax Exemption is a valuable privilege, not a punishment. The requirements we have put in eligibility for it are reasonable and necessary.
- Discriminatory taxes like Digital Services Taxes (DSTs) and others erode and steal the U.S. tax base. They are the type of bad behavior that BEAT should be used to dissuade.
- It is no secret that the U.S. opposes DSTs and discriminatory taxes around the world and is engaged in substantial negotiations to roll them back. The privilege of the High-Tax Exemption should complement those efforts.
- Those who have concerns about this requirement should voice their concerns to their home governments, and advocate for the removal of DSTs and discriminatory taxes on U.S. companies. If successful, the High-Tax Exemption will be open to them.

Why are we reforming NCTI the way we are?

- NCTI helps capture a fuller picture of income from controlled foreign corporations (CFCs) of U.S. shareholders. It also helps prevent profit shifting from the U.S. to offshore investments.
- The system has been successful, but gaps remain. This legislation works to achieve a closer balance between the need for preventing profit-shifting while keeping U.S. multi-nationals competitive globally. The legislation also includes compliance fixes that reduce complexity for both taxpayers and the IRS.

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The reforms to NCTI we are proposing

- Removing the 10% foreign tax credit reduction for NCTI. This allows companies to use their full FTCs when calculating their NCTI liability. This reduces double-tax on U.S. companies overseas.
- Allowing NCTI FTCs to be subject to the ordinary Section 904 carryback/carryforward rules.
- Allowing NCTI losses to be carried forward. This better recognizes the business cycle overseas where U.S. companies incur losses in early expansions in foreign markets, but then owe NCTI without any recognition of the costs of investing and operations.
- Reducing how many FTC limitation baskets exist, from 4 down to 2.
- Giving Treasury more flexibility on foreign tax redeterminations to begin reducing paperwork burdens on companies and IRS.

Why are we reforming FDDEI the way we are?

- FDDEI provides a domestic complement to NCTI that treats U.S.-based IP (and other types of assets that would be considered NCTI overseas) favorably. **This legislation keeps that parity, while building on the incentive for these things to be located the U.S. to grant primary taxing rights.**

The reforms to FDDEI we are proposing

- Increasing the FDDEI deduction percentage to 40% to equalize the deduction percentage with NCTI. This will ensure companies are not accidentally incentivized to move things overseas if the NCTI rate is different than the FDDEI rate.
- Limiting the benefits of the deduction when a company has a current year operating loss harms businesses investing in the U.S. to benefit their global operations.
- Adding a look-through for interest payments. This would encourage more deductible payments from abroad to the U.S., resulting in lower foreign taxes and the U.S. having increased primary taxing rights.
- Providing U.S. companies a temporary, basis-protective path to bring existing CFC IP home.

The path forward

- **This legislation is the first step in starting the conversation about where the U.S. can make its international tax system more competitive and stronger.**
- We will continue to build off feedback and ideas that are presented to us over the rest of the year and into the 120th Congress.
- We are using this bill as a marker and menu of options that are ready to be included in future tax packages.
- We are open to bipartisan cooperation on these issues in a serious and workable manner, but this package reflects where we believe a conservative pro-growth policy should be directed.
- **Rep. Estes will continue to be a leader in the international tax space and looks forward to the renewed effort to further build on the success of the TCJA and WFTC.**

U.S. CONGRESSMAN ★★★★
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