AmCham

THE AMERICAN CHAMBER OF COMMERCE IN HONG KONG

Tax Policy Impact on the International Competitiveness of the United States

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The American Chamber of Commerce in Hong Kong ("AmCham") supports the needs of the American business community both in Hong Kong and Greater China. To that end, the Chamber has previously advocated its concern with a system of taxation that results in making American companies less competitive than similarly situated non-U.S. owned businesses. As Congress and the Administration are aware, the U.S. tax system taxes both corporations and individuals on the basis of worldwide income, as opposed to a taxation system on a residence basis adopted by most countries with which the U.S. competes (e.g. U.K., Canada, China and Germany).[1]

It is the Chamber's experience that Chinese companies, like U.S. companies, leave income offshore to avoid paying current income tax. It is not uncommon to see a proliferation of Hong Kong, Cayman Islands and British Virgin Islands (BVI) companies as intermediate holding companies between China parent companies and non-Chinese subsidiaries. The above illustration highlights the fact that even in a country with both labor costs and a headline tax rate that are significantly lower than the U.S., the taxation of income earned offshore encourages complexity and discourages reinvestment in the home country.

Efficiency and friction in the movement of cash across borders has a significant influence on companies' costs and provides a competitive advantage to companies headquartered in countries where the ability to utilize cash is not limited by considerations of tax friction. AmCham supports, and believes, this would further the interests of U.S. businesses both within and outside the U.S.. The Chamber therefore encourages the Congress and the President to re-examine the benefits of a corporate system of territorial taxation at this time.

In addition, AmCham would like to emphasize the ambassadorial role of the American expatriate community employed in non-US jurisdictions. This community helps ensure U.S.-made goods and services have commercial viability in the markets in the Asia Pacific region. They help not only exporting their home country's values, goods and services throughout the region, but also serve the needs of the U.S. economy by participating in government-sponsored programs such as Select USA and encouraging Foreign Direct Investment (FDI) in the U.S. This has resulted in many Asia Pacific companies investing in and revitalizing depressed areas of the country, especially at a time when the U.S. is facing budget cuts.

All the countries mentioned above tax their citizens at effective rates greater than or equal to that of U.S. citizens, however they do not tax expatriates on income earned outside of their home country's jurisdiction. Currently, the U.S. government taxes Americans on worldwide income by providing a foreign earned income inclusion under IRC §911 for the first $101,000 of income. All other income earned offshore is also subject to tax. Additionally, while §911 offers a housing allowance exclusion, it is generally insufficient to prevent housing benefits in this region from being includible in the tax base of the expatriate employee.

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[1] At a corporate level, the U.K., Canada and Germany generally do not tax income repatriated from offshore subsidiaries. China, like the U.S., defers taxation until income is repatriated and then allows a tax credit for the underlying foreign tax up to the Chinese tax rate of 25% (or 15% for high technology companies).

Companies often send their senior-level executives on foreign assignment, however the existing §911 exclusions are insufficient to significantly reduce the cost of most expatriate assignments. As such, employers find it necessary to equalize U.S. expatriates for the additional tax costs of overseas assignment. It is indisputable that U.S. expatriates contribute to both their employers, as well as the interests and influence of the U.S. overseas. The higher tax-related costs therefore significantly undermine the global competitiveness of U.S. exporters.

Given the recent activity around the tax reform, it is incumbent upon Congress and the President to examine the impact of the American system of worldwide taxation has on U.S.' international competitiveness.

Hong Kong is a hub of international businesses headquartered here for the greater China and Asia Pacific markets. U.S. companies and U.S. expatriates play an instrumental role in U.S. market penetration and influence overseas, which is no less significant than the presence of U.S. hard power in this region.

AmCham HK urges that serious consideration be given in implementing a system of territorial taxation for corporations and individuals to boast U.S. competitiveness, or at least with respect to individuals, increasing the inclusions under §911 such that the regulations are more effective in combatting the costs of employing U.S. citizens abroad.

The American Chamber of Commerce in Hong Kong is the largest international chamber in Hong Kong and represents a broad and diverse membership.