Infrastructure and Global Tax Competitiveness Act

Congressman John K. Delaney (MD-06)

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This legislation is an expansion of the bipartisan Partnership to Build America Act. The goal of this legislation is to use repatriated revenue to increase investment in U.S. infrastructure while reforming our international tax code. The legislation accomplishes this by imposing a mandatory deemed repatriation tax for revenues currently overseas, giving the committees of jurisdiction a deadline for enacting comprehensive tax reform, and mandating a fallback position that ends deferral while lowering the rate on active foreign market income for international earnings in the event that the committees of jurisdiction are unsuccessful in passing comprehensive reform.

1. **Deemed Repatriation at 8.75% tax rate**
    a. This is the same rate that Chairman Camp uses for cash holdings in his tax draft;
    b. $50 billion will be used to capitalize the American Infrastructure Fund which will provide $750 billion of infrastructure financing for state and local government; and
    c. The remaining revenues would go into the Highway Trust Fund to pay for a 6-year reauthorization of a Surface Transportation Bill at increased levels.
2. **18 month deadline for Tax Reform**
    a. The bill creates a deadline for the committees of jurisdiction to act on comprehensive reform, which is the optimal way to reform our tax code;
    b. But, in the event that congressional gridlock blocks comprehensive reform or, at a minimum international tax reform, this legislation puts in place a fallback change to the international tax code to create a more competitive system for U.S. corporations and eliminate the accumulation of untaxed corporate cash overseas.
3. **Fallback International Tax Reform if no Corporate Tax bill passes**
    a. Ends deferral; and
    b. Roughly follows the Baucus "Option Z" distinction between Active Foreign Market Income, which is taxed at a reduced rate, and Non-Active income, which is taxed at the full rate.
4. **Commission on Permanent Highway Trust Fund Solvency**
    a. Because the legislation only produces enough funding for a 6-year Surface Transportation Bill, a commission is created to propose a solution for permanent solvency.

Benefits:

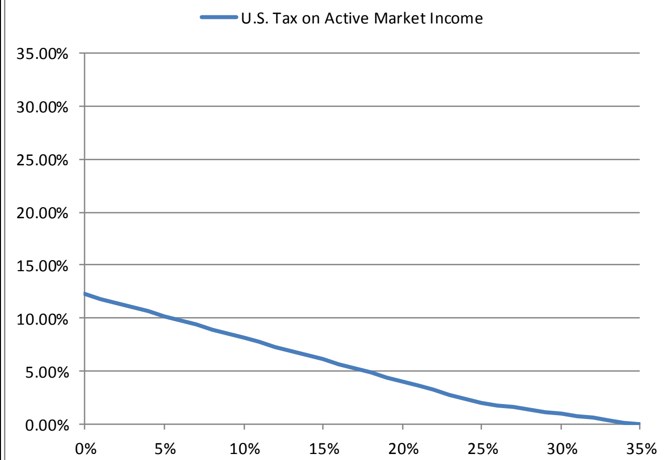
- Increases American Competitiveness
- Creates millions of jobs through increased infrastructure investment
- Provides business certainty by funding a long-term Surface Transportation Bill
- Eliminates deferral and "lock-out" effect, allowing for the free-flow of profits back to the U.S. without any loss of tax revenue
- Reduces companies' incentive to invert

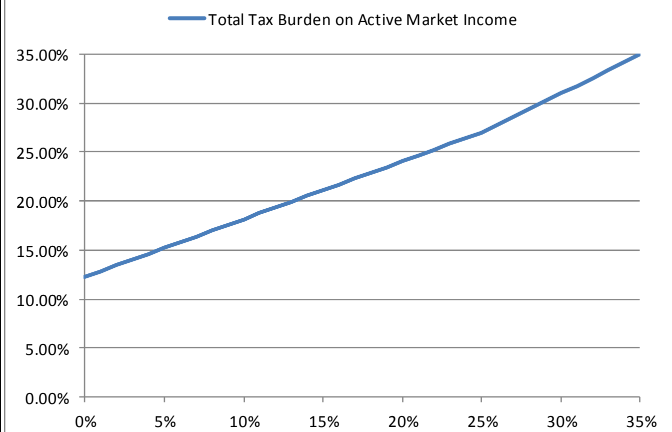
Current Law	Proposed Law
Active Market Foreign Income in a country with the OECD Average tax rate of 25%	
CFC pays 25% tax to the foreign jurisdiction. If the company wants to repatriate their money to the U.S. they have to pay 10% to the U.S. for a total tax burden of 35%.	CFC pays 25% tax to the foreign jurisdiction. The company pays 2.0% to the U.S. whether they repatriate or not, for a total tax burden of 27.0%.
Active Market Foreign Income in a country like Ireland with a tax rate of 12.5%	
CFC pays 12.5% tax to the foreign jurisdiction. If the company wants to repatriate their money to the U.S. they have to pay 22.5% to the U.S. for a total tax burden of 35%.	CFC pays 12.5% tax to the foreign jurisdiction. The company pays 7.13% to the U.S. whether they repatriate or not, for a total tax burden of 19.63%.
Active Market Foreign Income in a zero-tax jurisdiction	
CFC pays no tax to the foreign jurisdiction. If the company wants to repatriate their money to the U.S. they have to pay 35% to the U.S. for a total tax burden of 35%.	CFC pays 0% tax to the foreign jurisdiction. The company pays 12.25% to the U.S. whether they repatriate or not, for a total tax burden of 12.25%. Since companies earning in zero-tax jurisdictions typically do not repatriate their earnings, this represents a revenue increase equal to 12.25% of these earnings.
Non-Active Income	
CFC pays tax to the foreign jurisdiction. If the company wants to repatriate their money to the U.S. they have to pay the difference between 35% and the Foreign Tax Rate to the U.S. for a total tax burden of 35%	CFC pays tax to the foreign jurisdiction. The company pays the difference between 35% and the Foreign Tax Rate to the U.S. whether they repatriate or not, for a total tax burden of 35%.
$U.S. Tax = 35\% - (Foreign\ Tax\ Paid)$	*80% exclusion for Active Foreign Market Income with lower exclusion rates for earnings in foreign jurisdictions with below OECD average tax rates*

Tax Deferred until earnings are repatriated

Ends Deferment. Lowers taxes on Active Market Income

Foreign Tax	Current Law		Proposed Law	
	U.S. Tax under Current Law	Total Tax Burden	U.S. Tax on Active Market Income	Total Tax Burden on Active Market Income
0%	35%	35%	12.25%	12.25%
1%	34%	35%	11.84%	12.84%
2%	33%	35%	11.43%	13.43%
3%	32%	35%	11.02%	14.02%
4%	31%	35%	10.61%	14.61%
5%	30%	35%	10.20%	15.20%
6%	29%	35%	9.79%	15.79%
7%	28%	35%	9.38%	16.38%
8%	27%	35%	8.97%	16.97%
9%	26%	35%	8.56%	17.56%
10%	25%	35%	8.15%	18.15%
11%	24%	35%	7.74%	18.74%
12%	23%	35%	7.33%	19.33%
13%	22%	35%	6.92%	19.92%
14%	21%	35%	6.51%	20.51%
15%	20%	35%	6.10%	21.10%
16%	19%	35%	5.69%	21.69%
17%	18%	35%	5.28%	22.28%
18%	17%	35%	4.87%	22.87%
19%	16%	35%	4.46%	23.46%
20%	15%	35%	4.05%	24.05%
21%	14%	35%	3.64%	24.64%
22%	13%	35%	3.23%	25.23%
23%	12%	35%	2.82%	25.82%
24%	11%	35%	2.41%	26.41%
25%	10%	35%	2.00%	27.00%
26%	9%	35%	1.80%	27.80%
27%	8%	35%	1.60%	28.60%
28%	7%	35%	1.40%	29.40%
29%	6%	35%	1.20%	30.20%
30%	5%	35%	1.00%	31.00%
31%	4%	35%	0.80%	31.80%
32%	3%	35%	0.60%	32.60%
33%	2%	35%	0.40%	33.40%
34%	1%	35%	0.20%	34.20%
35%	0%	35%	0.00%	35.00%





Frequently Asked Questions

1. What is the American Infrastructure Fund?

The American Infrastructure Fund (AIF) is an independent financing entity which would provide loans, guarantees, and equity investments for state or local infrastructure projects in the areas of transportation, energy, water, communication, and educational facilities. The AIF's mission is to increase access to capital at lower interest rates so that states and municipalities will be able to increase their investment in infrastructure. Project selection will be left to the states and municipalities; the AIF will only make determinations on financing based on the credit-worthiness of the project and local government.

The AIF will be capitalized with $50 billion which it can leverage to provide $750 billion of simultaneous infrastructure financing.

2. What is a "deemed" repatriation?

Our current international tax system allows companies to defer payment on their earnings until they "repatriate" that income, i.e. bring it back to the United States. The tax rate they pay is the amount needed to plus up the amount of taxes they've already paid abroad up to 35% so the companies always pay a total of 35% when the foreign taxes and U.S. taxes are added together. In practical terms, this has resulted in $2 trillion of these earnings sitting overseas so that these taxes do not have to be paid. This is bad for the U.S. because we aren't getting that tax revenue, and this is bad for these companies, because they would like to be able to bring that money back to the U.S. to reinvest it.

Building on the model laid out by Chairman Camp in his 2014 tax draft, this legislation imposes a mandatory tax on all of the money that has accumulated overseas by companies continuing to defer their tax liability. The legislation "Deems" all of this money to have been repatriated, and therefore subject to immediate taxation, but exempts 75% of the earnings. The money is therefore taxed at an 8.75% rate before Foreign Tax Credits are applied. To mitigate issues of cash-flow, the companies are able to pay this tax liability over 8 years.

3. What is Baucus "Option Z"?

In 2013, Chairman Baucus released drafts of two international tax reform options. In his option Z, he separated income earned abroad into two categories: Active Foreign Market Income and Non-Active Income. The first category is for income earned abroad from business activity actively occurring abroad. The second category is for highly-mobile income that could, on paper, be easily transferred anywhere in the world and is not tied to business activity abroad. "Option Z" ends the deferral system, meaning no cash would accumulate untaxed overseas, but reduces the rate for Active Foreign Market Income.

This legislation builds upon the framework of "Option Z," but reduces the rate for Active Foreign Market Income even further, with a focus on reducing rates in jurisdictions with average levels of taxation. Specifically, this legislation would exclude 80% of a corporation's income from taxation if they are paying the OECD average of 25% foreign taxes, but exclude only 65% of their income if they are earning their money in a tax haven. This works out to a company paying a 12.25% tax to the U.S. if they earn their money in a tax haven, but only a 2% tax to the U.S. if they are paying 25% abroad, with a sliding scale in-between.

4. **What did Chairman Camp propose for go-forward earnings?**

   Chairman Camp's proposal for go-forward earning taxed active foreign income at a 1.25% rate (by applying a 25% tax rate, but excluding 95% of earnings). In addition, he created a "patent box" to tax intellectual property, whether domestic or international, at the same 15% rate.

5. **Why does the Highway Trust Fund need more money?**

   The last increase in the gas tax occurred in 1993. Because of inflation since then, combined with greater fuel efficiency, the gas tax no longer provides enough revenue to pay for the infrastructure investment we need. The annual shortfall is in the $15-18 billion range.

6. **How does this increase U.S. competitiveness?**

   The United States has a $3.6 trillion infrastructure deficit. This legislation makes a meaningful dent towards closing that gap, which will increase our nation's access and efficiency in transportation, energy, water, communications, and educational facilities.

   In addition, this legislation will allow trillions of dollars to come back to the U.S. to be reinvested in our economy, rather than remain trapped overseas untaxed. Ending the deferral system and reducing international tax rates going forward will also make U.S. companies more competitive in the global marketplace.