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ACT Tax Facts: The Administration's Proposed Minimum Tax on US-Headquartered Companies

Like Members of Congress on both sides of the aisle, President Obama recognizes the need to reform business taxation. The US corporate tax rate is more than ten percentage points higher than the average for the other G-7 countries and the United States stands alone among the G-7 countries by imposing a substantial tax on active foreign business income that is reinvested at home. As a result of the uncompetitive tax system, a rapidly growing number of corporate headquarters are leaving the United States through cross-border mergers and foreign takeovers.

The international tax provisions in the Administration's 2016 Budget unfortunately would further impair the competitiveness of globally engaged US companies by imposing a new foreign minimum tax on US-headquartered companies as part of a half trillion dollar tax increase on these companies over the next 10 years.

Under the Administration's proposed headquarters tax, a US-based company that fails to pay a minimum 22.4% tax rate to any country's government would be required to pay an immediate US tax on this income.

No other country imposes a minimum tax on the active foreign business income of their global companies. Consequently, the Administration's budget proposal would make the United States an even less attractive location for global companies to locate their headquarters. The end result of the new tax would be a further acceleration of "inversions" and foreign acquisitions of US companies.

As part of the OECD's Base Erosion and Profit Shifting (BEPS) project, the Administration recommended that other countries copy the proposed US headquarters tax as a best practice. However, other countries participating in the BEPS project want nothing to do with the US proposal as they recognize that such a tax imposed on their own multinational companies would harm their international competitiveness and reduce their domestic employment.

Enactment by the United States of the headquarters tax would encourage foreign governments to raise taxes on US companies up to the minimum tax rate, resulting in much of the additional tax revenue going to foreign governments (ranging from Switzerland to China) rather than to the US Treasury. Similarly, there would be little reason for US companies to seek reduction in foreign taxes below a 22.4 percent rate under the Administration's proposal. Greater foreign tax payments and an increase in foreign takeovers of US companies may be reasons why the Joint Committee on Taxation estimates that revenues from the proposed US headquarters tax would fall by 24% from 2021 to 2025.

The per-country calculations required under the Administration's proposed headquarters tax would be complex and costly, further hindering the ability of US companies to compete internationally. In a world with nearly 200 countries, high administration and compliance costs are a key reason why Congress rejected Treasury's proposal for a per-country foreign tax credit limitation in the 1986 Tax Reform Act.

The United States needs pro-growth tax reform. Unfortunately, the Administration's headquarters tax misses the mark: it would increase foreign takeovers of innovative American companies, encourage foreign governments to raise taxes on US companies, and greatly increase the cost of tax compliance for globally engaged US companies.