



The Daily Dish

Tax War

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Everybody is aware that the United States is in the midst of a global trade war started by President Trump. Yet the passage by the House of the One Big Beautiful Bill (OBBB) reconciliation act makes it official that it is in the midst of a global tax war as well. The OBBB contains Section 899, which is (in part) summarized by [PwC](#) as:

...a retaliatory measure on a discriminatory foreign country that imposes an “unfair foreign tax.” An unfair foreign tax is proposed to include an undertaxed profits rule (UTPR), a digital services tax (DST), a diverted profits tax, and, to the extent provided by the Treasury Secretary, an extraterritorial tax, discriminatory tax, or any other tax enacted with a public or stated purpose that the tax be economically borne, directly or indirectly, disproportionately by US persons.

And what happens if there is an “unfair foreign tax” (UFT)?

The proposal would increase US net income, withholding, and gross-basis tax rates on residents (including certain of their subsidiaries) and governments of those countries by 5 percentage points per year, up to a maximum rate of 20 percentage points above the applicable statutory rate and disallow an exemption for foreign governments.

That’s a lot for first thing in the morning. But the gist of it is simple: If you (e.g., the EU) have a UFT (e.g., the EU DST), then taxes on your companies are going up 5 percentage points every year. Basic message: Get rid of your DSTs, UPTR, and other UFTs, or else.

Now, to be fair, the president did not start this one. This has been brewing for over a decade, dating back to the Obama Administration playing nice with the Organisation for Economic Co-operation and Development’s Base Erosion and Profit Shifting (BEPS, see AAF

work [here](#)), which erected the data infrastructure to establish a global government cartel on taxing corporations. This was followed by Trump I resisting too little and the Biden Administration agreeing too much with the Pillar 1 and Pillar 2 tax initiatives (see [here](#)) to establish a global corporate minimum tax and global corporate tax-base sharing. These are fundamentally horrific tax initiatives, whose only virtue was that they were supposed to run off things like DSTs. They did not.

So, how has it come to this? The United States is effectively imposing a 20-percent tariff on inbound investment, which - if you just say it out loud - is clearly a very bad idea. At a time when federal budget profligacy has put the United States on watch by global creditors, the last thing one needs is another reason to invest elsewhere. And it is conceptually at odds with the idea that the tariffs will force foreign corporations to build in the United States. Why would they?

The tiny virtue of Section 899 is that it leaves no discretion to Tariff Man; once the secretary of the Treasury identifies the UFT, the tax starts and goes up by the specified amount. But it may be just as ineffective as dealing with the UFTs as were BEPS and Pillar 1/Pillar 2. It is a cure that is worse than the disease, and one that will hopefully disappear as the process of the OBBB continues.