The Daily Dish

Pitfalls of the Global Minimum Tax

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When Treasury Secretary Yellen announced an agreement on a global minimum tax of at least 15 percent last summer, there were reasons to be skeptical. The tax was part of an international tax "deal" in which the United States got the minimum tax it wanted in exchange for giving other countries the right to tax some of the earnings of large, successful U.S. tech companies (Google, Facebook, Amazon, Apple, and others). On the minimum tax side of the equation, there were many who doubted that every nation would really comply; instead, a supposed 15 percent tax would have a Swiss cheese of carve outs, special features, and other ways to reduce the effective rate. On the tech company side, the approach violated existing international tax principles and allocated what was previously considered U.S. domestic income to the tax base of other countries. This would require new tax treaties. Would the U.S. Senate concur?

In short, there appeared to be a large gap between the celebration of the agreement and an actual, working international tax code.

Since then there has been an important development. This past December, the Organisation for Economic Co-operation and Development (OECD) released "Model Rules" for the global minimum tax, laying out a proposed way to implement a country-by-country minimum tax of 15 percent on any large multinational whose effective tax rate is below 15 percent in <u>any</u> country in which it operates. Essentially, any country adopting the model rules would apply the minimum tax by including a portion of the low-taxed foreign income of its multinational companies in taxable income. As a backup, the model rules also allow <u>any</u> country to impose taxes on the local subsidiary of a foreign multinational company if that company had an effective tax rate less than 15 percent in any other country where it operates.

This means that other countries can impose a tax equal to the tax savings on any U.S. company if that firm's effective tax rate is less than 15 percent on its U.S. income. That is a problem.

As we see on a regular basis when the Institute on Tax and Economic Policy puts out its cheap-shot hit on U.S. corporations, many firms can find themselves in this situation by simply following the incentives that Congress has put in place in the form of expensing investment, tax credits for research and development, affordable housing (low-income housing credit), clean energy, carbon sequestration, and many others. If other countries are going to raise taxes by exactly the amount that these incentives lower them, what is the (tax) payoff to pursuing congressional virtue? Zero.

This is a terrible way to implement an unwise global minimum tax. Ironically, when the administration and Congress designed the unwise book income tax in the Build Back Better Act (which we can hope is really dead and not just mostly dead), it preserved the benefit of these incentives by preventing the book tax from being imposed if general business tax credits were the reason for a low tax liability.

There is no reason to agree to allow other countries to do to us something that we would not do to ourselves.