



Americans For Tax Reform Foundation

Analysis of Administration Proposals to “Reform the U.S. International Tax System”

Limit Shifting of Income Through Intangible Property Transfers

Current Law

Currently, if a U.S. taxpayer owns a company, they can give property they own to that company as a tax-free transaction. This applies not only to physical property, but also ‘intangible’ property, (for instance, intellectual property). It is up to the taxpayer to determine the monetary value of this property (which can later be challenged by the IRS)

Proposed Change

**This proposal would a)issue specific definitions of intangible assets b)give the IRS power to value intangible property on an aggregate basis c)would set a ‘highest and best use’ value on the transfer.**

ATR Analysis

While couched in the language of ‘clarification’, this is little more than a blatant power-grab by the IRS. Ultimately, this change will make the IRS the appraiser of intangible property in a business. It will give the IRS power to assign value, and *tell* a business what things are worth. If a business wants to challenge this, it will have to formally challenge the IRS. It will give the IRS power to ‘aggregate’ properties when it gives them a better result, force businesses to value property at its highest level, and would impose its own definitions on inter-business transfers.

If this was really about ‘clarification’, it would be revenue neutral. It is not. This is a clear grab for cash.

10-year Revenue Estimate:

U.S. Department of Treasury: \$2.9billion

Joint Committee on Taxation: \$1.0billion

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