



Americans For Tax Reform Foundation

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

Modify the Tax Rules for Dual Capacity Taxpayers

Current Law

Under current law, a taxpayer may claim a credit against its U.S. tax liability for taxes paid to a foreign country. Taxpayers that are subject to a foreign levy and that also receive a specific benefit from the levying country are known as dual capacity taxpayers. In some cases, these taxpayer are entitled to claim this credit for a foreign levy, which is substantially equivalent to an income tax, even if it is not called as such. Currently we can claim a foreign tax credit for taxes paid in all countries.

Proposed Change

This proposal will mean dual capacity taxpayers can only treat a foreign levy (that would otherwise qualify as an income tax) as a creditable tax only if the foreign country imposes an income tax.

ATRF Analysis

This proposed change uses complex jargon for a very simple reason: it is a nonsensical grab for cash by the IRS with no underpinning logic whatsoever. Rationality would dictate that if there is a foreign levy equivalent to an income tax, then it should be treated as an income tax – irrespective of whether such a tax exists or not.

The end result of this change will be twofold. Firstly, it will place yet another tax on American employers seeking to trade abroad. Secondly, it will make it harder for US companies to do business in countries with no income tax, particularly developing countries. It will clearly put on the record that the U.S. only wants to do business in developed countries.

10-year Revenue Estimate:

U.S. Department of Treasury: \$4.5 billion

Joint Committee on Taxation: \$7.2 billion