

# Designing a Rational International Tax System for the United States

by

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I recommend that the U.S. corporate tax regime tax all corporations in the same way, regardless of whether they are U.S. or foreign corporations. This would:

1. Eliminate the competitive disadvantages U.S. multinationals experience under the current regime in conducting business abroad;
2. Eliminate the competitive advantages foreign multinationals experience under the current regime in conducting business in the United States;
3. Eliminate the issue of “corporate inversions” since there would no longer be any tax benefit from a corporate inversion; and
4. Eliminate the need to have the place of incorporation rule to distinguish U.S. from foreign corporations (a rule which highly exalts form over substance and plays right into the hands of tax havens).

One way to have a corporate tax regime that taxes all corporations in the same way is to adopt worldwide formulary apportionment. This would:

1. Eliminate the lock-out effect (the current tax disincentive for U.S. parent corporations to receive dividends from their foreign subsidiaries);
2. Eliminate the need for Subpart F;
3. Eliminate the tax incentive for moving operations abroad (assuming a sales factor is used to apportion income);
4. Eliminate the problem of “earnings-stripping”;
5. Eliminate the need for transfer pricing; and
6. Eliminate the need for sourcing income and allocating and apportioning expenses.

This approach would also solve every “base erosion” issue set forth in the OECD’s Base Erosion and Profit Shifting (BEPS) Action Plan (issued July 19, 2013).

Michael Durst, a former Director of the IRS Advance Pricing Agreement Program and now a strong advocate of worldwide formulary apportionment, has written extensively on the subject and I commend his articles to you.

Thank you very much for your consideration of these recommendations.

Sincerely yours,  
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