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How Big Companies Won New Tax Breaks from the Trump Administration

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President Trump signed the Tax Cuts and Jobs Act (TCJA) into law on December 22, 2017. The law brought about drastic changes to federal tax laws—so much so that the Act is recognized as the largest tax code overhaul in thirty years. American companies constantly pursue methods that allow them to pay taxes lower than 35%, such as using techniques like 'Double Irish with a Dutch Sandwich.' In order to tackle this, the law slashed taxes for big companies, aiming to induce them to invest more in the US rather than piling their profits in various tax havens. But no good deed goes unpunished. The budget deficit subsequently increased by more than 50%.

TCJA created a single corporate tax of 21%--as compared to the previous 35%--and abolished the alternative minimum tax. Unlike tax breaks for individuals, these provisions do not expire.

Rather than paying their fair share of taxes, huge US companies move their profits to countries where tax rates are considerably lower, such as Luxembourg, Bermuda, and Ireland. Lawmakers came up with two tools to tackle this problem and to deter companies from moving capital offshore: the Base Erosion and Anti-Abuse Tax (BEAT) and the Global Intangible Low-Taxed Income (GILTI). BEAT aimed to impose an additional 10% tax on payments that companies send to their foreign affiliates. GILTI would apply a 10.5% tax on offshore earnings. But lobbyists got the best of lawmakers and shut down these proposals before they were ever enacted.

The first victory came for international bankers, who were trapped from all sides. American regulators require international banks to keep their American divisions sufficiently capitalized to sustain huge losses in the event of a crisis. To comply with these regulations, foreign branches of banks provide loans to American divisions, which incur interest. BEAT aimed to tax interest payments from American bank divisions to foreign branches. But Treasury Secretary Steven Mnuchin was successfully convinced by lobbyists to call off these tax impositions, and other major exemptions which were also granted to international banks.

Lobbying against GILTI proved to be equally fruitful. GILTI predominantly targeted tech and pharmaceutical companies, who rely on profits borne from patents. These companies sell their rights in patents to subsidiaries in low taxing countries. The subsidiaries then charge heavy licensing fees to American divisions, causing US profits to fall while tax haven profits rise. GILTI targeted companies that were using this tax loophole. Naturally, the companies responded. United Technologies, Anheuser-Busch, Comcast, and other giants dispatched lobbyists and demanded a “High-tax exception.” After only a few months of lobbying, the Treasury Department made an announcement in June 2019 that it would create the company-requested exception.

Now, two years after this intensive overhaul of federal tax law, the consequences are becoming vivid. While companies are still moving their profits to lucrative tax havens and enjoying profit hikes as a result of various tax cuts and exceptions, the government is collecting billions fewer from corporations. Indeed, the Organization of Economic Cooperation and Development observed that the United States experienced largest drop in tax revenues in 2018.