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Yellen pushes global minimum tax as White House eyes new spending plan

The Biden administration seeks to reverse decades-long 'race to the bottom' in corporate taxation — but obstacles loom large

By Jeff Stein

Treasury Secretary Janet Yellen is working with her counterparts worldwide to forge an agreement on a global minimum tax on multinational corporations, as the White House looks for revenue to help pay for President Biden's domestic agenda.

The effort, which would involve a fraught and challenging global negotiation of tax laws, could prove one of Yellen's biggest policy legacies if it succeeds. It also could prove central to Biden's presidency. The $1.9 trillion stimulus legislation signed into law last week was financed completely by additional federal borrowing. But the administration is expected to raise taxes at least partly to pay for its other big-ticket spending priorities, such as the massive infrastructure and jobs package being discussed by White House officials and congressional Democrats.

A key source of new revenue probably will be corporate taxes, which President Donald Trump sharply cut in 2017. Although he has not proposed entirely reversing Trump's cut in the corporate tax rate from 35 percent to 21 percent, Biden has said he would aim to raise potentially hundreds of billions more in revenue from big businesses.

But some tax experts, business groups and Republican lawmakers say raising the rate could damage U.S. competitiveness. Countries worldwide have both recently and over the past several decades joined the United States in reducing tax rates to attract corporate investment, a trend some economists view as a destructive "race to the bottom." The average tax rate among countries is 24 percent, according to the Tax Foundation, a right-leaning think tank. Just last year, nine countries, including France, lowered their corporate tax rates.

"It's a little like the Paris climate accord of taxes. Every country thinks it can steal business from others by lowering taxes, and the only beneficiary of that race to the bottom has been the richest multinational corporations," said Joseph Stiglitz, a Nobel Prize-winning economist at Columbia University and a mentor of Yellen's.
Yellen is working to curb the practice through an effort at the Organization for Economic Cooperation and Development in which more than 140 countries are participating. The goal is for countries to agree in principle to a minimum corporate tax rate — although it would

be nonbinding — that would make it harder for multinational corporations to play countries off one another by threatening to leave.

It remains highly unclear whether Yellen and the OECD can successfully negotiate a new agreement, particularly given the complexity involved of coordinating new tax rules across so many different countries.

"For decades, Europe was happy to cut taxes and take advantage of America having an uncompetitive corporate tax code," said Brian Riedl, policy expert at the libertarian-leaning Manhattan Institute. "Now that America has modernized its policies, Europe is looking to gain the upper hand again -- particularly by raiding silicon valley."

Yellen in her first several weeks in office has spoken about the OECD tax negotiations with the finance ministers of Germany and France, among other nations, according to the Treasury Department. In late February, Yellen also told the Group of 20 nations that the United States has dropped demands to allow firms to opt out of new global digital taxes — a move applauded by other European nations that bolstered hopes for an agreement within months, possibly this summer.

"A global minimum tax could stop the destructive global race to the bottom on corporate taxation and help discourage harmful profit-shifting," Yellen told U.S. senators during her confirmation process.

Yellen also said, "It's necessary for U.S. companies to be globally competitive, and that's why these OECD negotiations are so important."

But Yellen's efforts face myriad skeptics, who worry that the push could encourage further tax shifting to countries outside the OECD agreement, or lead the United States to make concessions that will hurt its competitiveness.

The U.S. Chamber of Commerce says it supports a "multilateral" approach to the problem but is "extremely concerned" that the proposed OECD rules would create additional complexity for multinational firms. Critics, including the Chamber, have expressed concern that the agreement would also lead firms to face "double taxation" on some profits, meaning two countries would levy taxes on the same stream of income.

Some opponents say the European countries are trying to claim a share of the financial success enjoyed by Silicon Valley firms developed by the United States, arguing that expanding taxation of tech firms risks shrinking the national "tax base" — the share of economic activity that falls under the United States' purview to tax.

"It's just a money grab from the Europeans, and we should not let them do it," said Douglas Holtz-Eakin, president of the center-right American Action Forum and a former director of the Congressional Budget Office. "My big concern is that — as part of their desire to be on a 'let's be friends' parade — the Biden administration will give away too much."

Some critics on the left have warned that the OECD's proposed solutions would primarily benefit countries that are already rich. The OECD framework would allocate the right to tax multinationals on the basis of the profits in a given country, rather than their number of employees — a metric some skeptics warn would privilege wealthier countries, given that they also have richer consumers.

Over the past four decades, industrialized nations worldwide have cut business taxes significantly.

Multinational corporations have increasingly stashed their profits in overseas tax havens, where little real economic activity occurs. At the same time, corporate tax rates have also fallen in industrialized countries not considered tax havens, in part because they are attempting to prevent capital from going to low-tax jurisdictions.

The average corporate tax rate globally in 1980 was about 40 percent, a number that has fallen to about 23 percent in 2020, according to the Tax Foundation. About 40 percent of profits earned by the world's multinational firms — or more than $700 billion — was stashed in tax havens in 2017, the most recent year for which data are available, according to research by a team of economists including Gabriel Zucman, an economist at the University of California at Berkeley.

Developing countries depend more than advanced ones on corporate tax revenue for their budgets, meaning they have been particularly affected in their ability to raise funding for public spending projects by this race to the bottom, according to the International Monetary Fund. Still, the IMF and economists have said both poor countries and rich ones are hurt by the decline in corporate taxes.

The decline worldwide is startling. From 2000 to 2018, 76 countries cut their corporate tax rates, according to the OECD. Over that same period, 12 countries maintained their corporate tax level, and only six increased them.

In 2000, more than 55 countries had corporate tax rates above 30 percent. Now, fewer than 20 do.

"When one jurisdiction crafts a new tax loophole or secrecy facility that successfully attracts mobile money, others copy or outdo it in a race to the bottom," the IMF said.

The impact of the falling international tax rate has hit the United States as well, constraining lawmakers' ambitions to approve new domestic programs.

Before the 2017 GOP tax law, the official U.S. corporate tax rate remained at 35 percent for several decades. But that number masked a decline in what American corporations were actually paying. Because of expanded deductions and other subsidies, as well as the booking of profits in countries with much lower rates, U.S. corporations were already contributing far less to the federal budget. The effective U.S. federal tax rate had fallen from about 44

percent to closer to 29 percent before the tax law was passed, according to Goldman Sachs research.

The GOP tax cut lowered the official rate from 35 percent to 21 percent and pushed the effective rate lower. After the tax cut, the effective rate paid by the largest Fortune 500 companies fell from 21 percent to about 11.3 percent, with 91 of the world's biggest corporations paying zero dollars in federal taxes. The tax cut has contributed to the staggering federal debt.

Biden campaigned for the presidency promising to enact new federal programs costing trillions of dollars, including expanding health care and rebuilding the nation's infrastructure. He has promised to pay for those measures by partly repealing the GOP's corporate tax cut and cracking down on business tax evasion.

But those plans have exposed the administration to Republican attacks that these tax increases will hurt U.S. competitiveness by encouraging multinational firms to relocate abroad. This is partly why administration officials, led by Yellen, keep pointing to the OECD negotiations as crucial to Biden's broader agenda. At news briefings, White House press secretary Jen Psaki repeatedly has referred to tax increases on corporations as part of a global problem requiring a global solution.

"Is the objective of the U.S. to win a race to the bottom in global taxation, or is our objective to end the race to the bottom and level up corporate taxation so there could be lower burdens on working people here and everywhere else?" said Larry Summers, who served as treasury secretary and director of the White House National Economic Council under previous Democratic administrations. "I'm encouraged by Secretary Yellen's early signals."

Translating that ambition into reality through the OECD negotiations will prove much more difficult in practice.

The OECD negotiations put two related proposals on the table.

The *first* pertains primarily to the digital taxation of multinational corporations. Currently, taxes are mostly based on where companies are headquartered, as well as where they book their earnings. In the case of most tech firms, that is America. European countries, particularly France and Italy, have sought to claim a piece of the revenue earned by Silicon Valley giants from the e-commerce activity that *occurs in their* countries.

To address that issue, the OECD is proposing to grant countries taxing rights over a part of multinational firms' profits where the consumers reside. Those would be assessed regardless of the companies' physical presence. The tech firms' digital profits would be allocated based on a formula, with about $100 billion in global tax revenue set to be distributed more evenly across countries. Under Trump, the United States pushed back strongly against solely approving a new digital tax, and the issue emerged as a major stumbling block to a broader deal.

But under Biden, the United States may be more open to that change. Yellen took the first big step in that direction in February, telling the G-20 that the United States would no longer insist on a "safe harbor" that would allow tech companies to escape from the new digital tax. That decision is viewed as a major concession and a sign of U.S. seriousness about reaching an agreement.

"Secretary Yellen making important step of dropping the request for a safe harbor. A new impetus and a real chance to make it!" German finance minister Olaf Scholz said on Twitter after Yellen's announcement.

Yellen's concession on digital taxation may help pave the way for an agreement on a separate major part of the OECD tax agreement that is mostly about enacting a floor on international corporate tax rates.

Under this part of the plan, the OECD would establish a global minimum tax rate -- possibly around 12 percent of profits, although the final rate remains undecided. Low-tax countries would face pressure to increase their rates to adhere to this new minimum, because if they do not, other countries would be granted the authority to levy additional taxes on the overseas earnings of their firms.

For example, Hungary could maintain its existing 9 percent corporate tax rate even after the new 12 percent minimum is enacted. But under the OECD agreement, France could collect taxes on the income earned by French companies in Hungary amounting to the difference between Hungary's corporate tax rate and the 12 percent global minimum — a measure known as a "top-up" tax. Hungary, seeing potential taxes siphoned off to France, could decide simply to raise its corporate rate to 12 percent. That would make Hungary a less attractive place for French firms to relocate but prevent France from taxing activity in Hungary.

"The OECD thinks there will be some gravitational pull toward that [new global] minimum," said Daniel Bunn, an international tax expert at the Tax Foundation.
Some skeptics warn that such a move could come with a separate set of trade-offs and significant procedural and administrative hurdles. And other economists warn that it would not do nearly enough to stem the decline in corporate taxes.

"The OECD's blueprints offer little more than a 'tax haven lite' model where tax havens can keep the majority of profit they siphon from around the world so long as they share some of those profit with the richest of countries," Alex Cobham, chief executive at the Tax Justice Network, said in a statement last fall.

Any agreement reached by the Biden administration under the OECD about digital tax rules probably would have to be ratified by Congress. That could be difficult, depending on the details of the deal, as powerful tech giants may lobby to kill U.S. concessions on the digital service tax. Because it is nonbinding, it could take years for the OECD member countries to pass laws putting the agreement into effect — if they do so at all.
But proponents say the cost of inaction remains too steep.

The Trump administration approached global economic negotiations from a U.S.-centered perspective, often angering U.S. trading partners in the process. Yellen is vowing to restore a more collaborative U.S. attitude toward economic agreements across borders.

The OECD negotiations will be a major early test of that ambition.

"No one nation alone can declare victory over these crises. Indeed, our cooperation has never mattered more," Yellen said in her letter to the G-20, citing the global impact of the coronavirus, among other crises. "We have come together to face great challenges in the past. We must do so again."