



TOWARDS A 21ST CENTURY INTERNATIONAL TAX REGIME*

THE INTERNATIONAL TAX SYSTEM IS OBSOLETE

**THE US HAS BEEN LOSING MORE THAN \$100 BILLION A YEAR TO PROFIT SHIFTING
THE TCJA MAY HAVE MADE IT WORSE THAN EXPECTED**

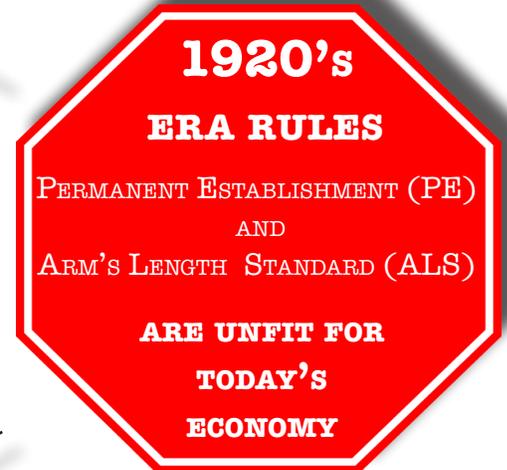
OBSOLETE RULES

PERMANENT ESTABLISHMENT conditions a country's right to tax a corporation upon establishing a fixed place of business in the country.

PROBLEM: Multinational corporations avoid paying profit taxes in a country they sell in by using digital transactions and other means to avoid having a permanent establishment.

ARM'S LENGTH STANDARD requires corporations to charge their foreign subsidiary the same amount for a given product or service as if it were sold to a third party for a fair market value.

PROBLEM: Proving fair market value is often difficult or impossible.



A PLAN THAT WILL WORK:

Sales Factor Apportionment (SFA)

SFA FIXES PROFIT SHIFTING BECAUSE

REGARDLESS OF WHAT THE REST OF THE WORLD DOES,

IT TAXES ALL PROFITS MADE FROM OUR MARKET

* Reuven Avi-Yonah and Kimberly Clausing, "Towards a 21st Century International Tax Regime", Tax Notes International, August 26, 2019.

WHY SALES FACTOR APPORTIONMENT WILL WORK:



THE US CAN IMPLEMENT SFA UNILATERALLY, WHILE FACILITATING GLOBAL ADOPTION.

IT ABANDONS THE PERMANENT ESTABLISHMENT RULE BY TAXING FOREIGN AND MULTINATIONAL COMPANIES BASED ON THEIR ACTUAL SALES IN THE U.S.

IT ABANDONS THE ARM'S LENGTH STANDARD BY DISREGARDING PROFIT SHIFTING TRANSACTIONS TO FOREIGN SUBSIDIARIES.



OTHER PLANS THAT WON'T WORK:

TREASURY PROPOSAL FOR OECD

TARGETING MARKETING INTANGIBLES ONLY
ADDITIONAL TAX

IMPOSSIBLE TO SEPARATE MARKETING INTANGIBLES FROM OTHER TYPES OF INTANGIBLES.

**OECD PROPOSAL #1;
SIMILAR TO FRENCH PROPOSAL**

INCOME TAX ON USER PARTICIPATION
RELATED TO AD SALES

THIS TAX IS SO LIMITED THAT IT WILL ONLY CATCH A FEW DIGITAL COMPANIES.

BLUEPRINT FOR TAX REFORM

DESTINATION-BASED CASH FLOW TAX

DBCFT REQUIRES SMOOTH EXCHANGE-RATE ADJUSTMENT OR RISKS HURTING RETAILERS. SIMILAR HISTORICAL EXAMPLES IN THE WORLD SHOWS NO SMOOTH EXCHANGE-RATE FOR THAT TYPE OF CHANGE .

**VARIATIONS ON US TREASURY
PROPOSAL**

RESIDUAL PROFIT ALLOCATION BY INCOME

THE ATTEMPTS TO SOLVE BY HYBRID PROPOSAL ARE THWARTED BY A RELIANCE ON THE INEFFECTIVE ARM'S LENGTH STANDARD.