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Reconciling Data on Transition Tax Payments: An Examination of Tax, Economic, and Financial Sources

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What Is the Transition Tax?

The 2017 tax act (Public Law 115-97) changed the way that the foreign income of U.S. corporations was taxed. Before those changes, many types of foreign income were not taxed by the United States until the income was brought back, or repatriated, to the United States.

As part of the transition to the new system, a onetime tax was imposed on the existing unrepatriated foreign earnings of U.S. corporations. Corporations must pay the tax regardless of whether they actually repatriate the earnings to the United States.

The total liability is calculated based on two different applicable rates:

- Cashlike assets: 15.5 percent
- Noncash assets: 8 percent

How Do Corporations Pay the Transition Tax?

Corporations may elect to pay the tax in installments over a period of eight years, with 60 percent of the total paid in the last three years.

The payment schedule for the installment plan is:

Payment Year	Percentage of Total Liability
First through fifth	8 percent each year
Sixth	15 percent
Seventh	20 percent
Eighth	25 percent

Because different corporations have different fiscal years, only some companies made their first payment in federal fiscal year 2018. Other companies made their first payment in 2019.

What Were Some Early Estimates of the Transition Tax?

In December 2017, the Joint Committee on Taxation (JCT) estimated that the **net revenue effect** of the transition tax would be $339 billion. That estimate includes the direct onetime tax liability on corporations as well as other effects of the provision.

www.jct.gov/publications.html?func=startdown&id=5053

In March 2018, the Bureau of Economic Analysis (BEA) estimated that the onetime tax liability would be $250 billion. That total was booked on an accrual basis to the fourth quarter of 2017 as a **onetime capital transfer** to the federal government.

www.bea.gov/help/faq/1293

In July 2018, CBO reported that the **direct onetime tax liability** to be paid over eight years by corporations would total $347 billion. That estimate is consistent with JCT's estimate from December 2017.

www.cbo.gov/publication/54194

How Does the Transition Tax Affect CBO’s Baseline Projections of Corporate Income Tax Revenues?

CBO’s baseline projections of corporate income tax revenues reflect direct gross payments ($347 billion) and a pattern of receipts through fiscal year 2027 that are consistent with JCT’s estimates.

- The projections incorporate the expectation that each installment would be divided 50/50 between federal fiscal years—that is, that companies that made initial payments in federal fiscal year 2018 represent 50 percent of total liability.

- The $347 billion excludes other effects of the transition tax, such as dividends and capital gains accruing to individual income tax revenues concentrated in federal fiscal years 2018 and 2019.

What Might Prompt CBO to Update the Transition Tax Estimate in Those Projections?

- Updated information on total liability
- Information on how payments are divided among federal fiscal years
- Information on whether companies are using the installment plan
- Information on whether 2017 overpayments for regular income taxes accelerated the payment of liability

Information on the Transition Tax: Tax Data

The Internal Revenue Service’s (IRS’s) Statistics of Income (SOI) corporate file for 2017 includes the transition tax liability for some corporations.

Corporations had to report accumulated foreign earnings on the tax return for the last taxable year that began before January 1, 2018. A company’s taxable year is generally determined by its fiscal year.

The 2017 SOI corporate file includes the liability for companies with fiscal years that end between December 31 and June 30. Those companies should also have paid their first installment (or total liability) with their 2017 return; those initial payments would have shown up as federal revenues in federal fiscal year 2018.

The 2018 SOI corporate file will include the liability for companies with fiscal years that end between July 1 and December 30 (and for some other filers whose foreign subsidiaries’ fiscal year started one month earlier than their own). For those companies, initial payments occurred in federal fiscal year 2019.

Information on the Transition Tax: Financial Reports

The IRS’s 2017 SOI file contains data about the transition tax liability for some corporations but not all. Because some corporations do not yet appear in the SOI data, additional sources of data must be used.

Annual financial reports (10-Ks) are currently available for a more comprehensive set of corporations.

- Most publicly traded corporations reported their transition tax liability in their 2017 10-K, their 2018 10-K, or both.
- Some also provided information about whether they planned to pay the tax in installments and gave information about the size of those installments.

Financial Reports: The Sample Analyzed

CBO used the Institute on Taxation and Economic Policy's (ITEP's) March 2017 listing of permanently reinvested earnings (PRE) for Fortune 400 companies to identify corporations that would be expected to have large transition tax liabilities.

High PRE are likely to be correlated with significant foreign earnings that are subject to the transition tax, though they are not a perfect measure.

ITEP reported that Fortune 400 companies had a total of $2.6 trillion in PRE.

CBO narrowed the list to companies with PRE of more than $20 billion and examined those companies' 10-Ks.

Financial Reports for Companies in the Sample: Total Liability

SOI Year	Number of Companies	Permanently Reinvested Earnings (Billions of dollars)	Liability (Billions of dollars)	Share of Liability (Percent)
2017	25	1,165	116.4	61
2018	7	634	74.8	39
Total for Sample	32	1,800	191.2	n.a.

The 32 companies sampled hold 69 percent of the PRE in the Fortune 400 list.

If they accounted for the same share of total transition tax liability, that total would be $276 billion. (Results are similar when cutoffs other than $20 billion of PRE are used.)

n.a. = not applicable.

Financial Reports for Companies in the Sample: Information on Timing of Payments

Of the 32 companies, 21 include a statement in their 10-K that indicates that they plan to pay the transition tax in installments.

- Many of the remaining 11 companies do not give any clear indication of the timing of payments.
- A few companies (which report small liabilities) indicate that they had enough credits or payments to offset the full transition tax liability in the first year.

Some companies list the installments of the transition tax as a contractual obligation.

- For some companies, the annual installments listed for years between 2018 and 2020 are less than 8 percent of their total liability.
- That may suggest that overpayments in the year in which the liability was reported have absorbed a portion of those later installments.

What Tax Liability Is Suggested by the Evidence From Financial Reports?

Overall, the evidence from financial reports suggests that the total transition tax liability will be between $250 billion and $300 billion.

- **Why might total liability be higher?** Some foreign earnings are held by companies outside the Fortune 400.
- **Why might total liability be lower?** There is some indication that the liability in the 2017 SOI file is lower than 10-K values for 2017 filers would suggest.

What Timing of Payments Is Suggested by the Evidence From Financial Reports?

Company-level evidence on installments:

- There is evidence that some companies paid up front and that others had overpayments for 2017 applied to early installments.
- That could indicate that there were some collections in federal fiscal year 2018 that CBO would have expected to occur in 2019 (or later).

Division of installments between federal fiscal years:

- Variation in companies' fiscal years means that they pay installments at different times.
- The financial reports suggest that, instead of each installment's being divided 50/50 between federal fiscal years, the divide may be closer to 60/40—that is, that companies that made initial payments in federal fiscal year 2018 may represent closer to 60 percent of total liability.