So-Called "Offshoring Tax" Would Impose a Tariff on Imports – But Exempt Foreign-Owned Companies

- President Biden during his campaign proposed a 30.8% "offshoring tax" on the income of foreign subsidiaries of U.S. companies from sales of goods and services to U.S. consumers (whether or not the operations actually were offshored from the United States).

- Under current law, active foreign income of U.S.-owned foreign subsidiaries is subject to a U.S. minimum tax (GILTI) if taxed at a rate of less than 13.125% by the foreign country.

- The proposed 30.8% "offshoring tax" would operate as a tariff on imports of goods and services, but only if purchased from U.S.-owned foreign subsidiaries. Because no similar tariff would apply to foreign-owned companies, the proposal would create an incentive for U.S. consumers to purchase imports from foreign-owned companies, instead of their U.S.-owned competitors. The "offshoring tax" would also create a tax incentive for foreign companies to acquire U.S. companies or their foreign subsidiaries.

- The "offshoring tax" seems to be based on several false beliefs that should be corrected:
  1. **Foreign operations of U.S. companies do not come at the expense of domestic employment.** Numerous academic studies have found that expansion of U.S. firms' operations abroad is associated with **increased** investment and employment at home. [1]
  2. **Foreign operations of U.S. companies are not focused on supplying the U.S. market.** U.S. government data show that nearly 90% of the sales of goods and services by the foreign subsidiaries of U.S. companies are to foreign customers. [2]
  3. **The 2017 tax law did not create an incentive to move jobs offshore.** The most recent government data show (1) employment, value added, and investment in plant and equipment of U.S. multinational companies grew faster in the U.S. than abroad in 2018, the first year under the new tax system; (2) the growth in these domestic activities exceeded their 20-year averages; and (3) the growth of similar *foreign* activities in 2018 was slower than their 20-year averages (see Figure 1). [3]

- Experience shows that taxing the foreign operations of U.S. companies at rates above those faced by foreign competitors will come at the cost of U.S. global market share.
  - Legislation in 1975 and 1986 increased taxes on the foreign income of the U.S. shipping industry to

1. Mihir A. Desai, C. Fritz Foley, and James R. Hines Jr., "Domestic Effects of the Foreign Activities of US Multinationals," *American Economic Journal: Economic Policy 2009*, 1:1, 181–203 http://www.aeaweb.org/articles.php?doi=10.1257/pol.1.1.181

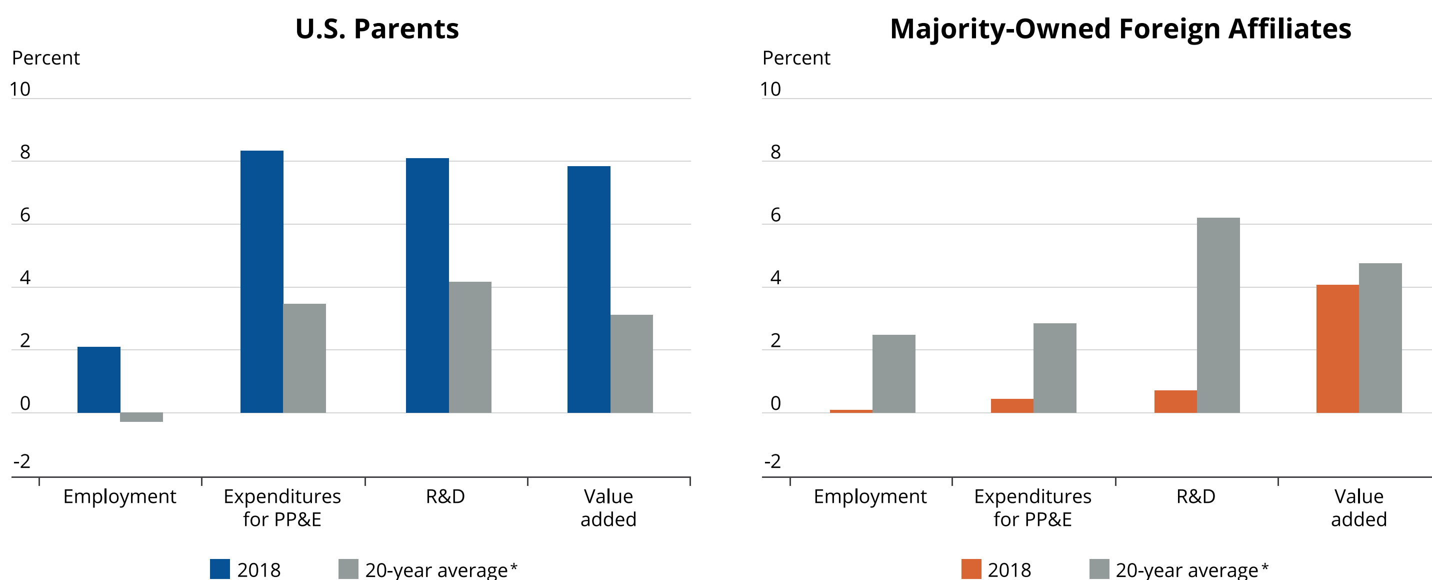
2. U.S. Bureau of Economic Analysis, Worldwide Activities of U.S. Multinational Enterprises: Preliminary 2018 Statistics, Majority Owned Foreign Affiliates, Table II.E 9.

3. U.S. Bureau of Economic Analysis, "Activities of U.S. Multinational Enterprises, 2018," Press Release, BEA 20-40, Aug. 21, 2020.

rates far higher than those paid by foreign competitors. As a result, the U.S. shipping industry shrank precipitously, while foreign shippers expanded. Only after 2004 legislation reversed these earlier measures did the U.S. shipping industry again begin to expand.

» Recognizing the harmful consequences of imposing discriminatory taxes on imports from U.S.-owned companies, Congress has repeatedly rejected similar proposals contained in bills introduced since at least 1991. [4]

Figure 1: Annual Percentage Change in the Activities of U.S. Multinational Companies



*20-year average, 1998-2018, excluding benchmark years (1999, 2004, 2009, and 2014).

U.S. Bureau of Economic Analysis, "Activities of U.S. Multinational Enterprises, 2018," Press Release, BEA 20-40, Aug. 21, 2020.

4. See, e.g., "American Jobs and Manufacturing Preservation Act of 1991," H.R. 2889, introduced by Reps. Dorgan and Obey, July 11, 1991.