

David Rosenbloom Comments: Legislation Raises Tax Treaty Concerns for U.S. Multinationals

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Companies that fear losing treaty and trade protections are watching the world's reception of U.S. tax reform bills that some governments say may violate existing agreements.

House and Senate bills, now under negotiation toward a final package, have drawn European scrutiny with respect to trade pacts, and some business groups and analysts think the bills also risk undermining the anti-discrimination clause in tax treaties.

U.S. multinationals are monitoring other countries' reactions to the measures, said H. David Rosenbloom, a member of Caplin & Drysdale, Chartered and director of the International Tax Program at the New York University School of Law.

"If I were the tax director of a multinational, I would worry about that," he said. If the U.S. passes legislation that undermines treaties, "the attitude toward the U.S. on the international scene will change dramatically and the U.S. companies are going to pay the price."

Lawmakers had reached deals on a number of issues by late Dec. 13, but hadn't released any agreements. Congressional leadership is aiming to send a tax overhaul bill to the White House before Christmas. (For a road map of where to find key provisions and compare the House tax reform bill (H.R. 1) with the Senate bill, read Bloomberg Tax's analysis.)

Excise Tax Worries

Rosenbloom and others said the provision of most concern is the House bill's 20 percent excise tax on some payments to foreign affiliates. Several people said it could violate the treaty anti-discrimination clause prohibiting differing treatment of similarly situated taxpayers.

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Rosenbloom said lawmakers' actions are showing "zero recognition that other countries will react or that they matter."

For the full article, please visit *Bloomberg Law's* website (subscription required).

Excerpt taken from the article "Legislation Raises Tax Treaty Concerns for U.S. Multinationals" by Alison Bennett for Bloomberg Law's Daily Tax Report®.

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