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IFA Branch Report: United States (Trends in Company / Shareholder Taxation: Single or Double Taxation?)

Reuven S. Avi-Yonah
University of Michigan Law School

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Trends in company/shareholder taxation:
single or double taxation?

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Branch Reporter
Reuven S. Avi-Yonah*

1. Company rate and tax base

In 1986, the corporate tax rate was reduced from 46 per cent to 34 per cent (35 per cent since 1993), but the rate reduction was more than offset by base broadening provisions (e.g. repeal of the investment tax credit and lengthening the depreciation schedules). Neither the rate nor the base has changed much since then. State corporate taxes vary from state to state but can increase the rate by over 5 per cent (taking into account the deductibility of state taxes). However, the effective rate paid by many corporations is closer to 20 per cent, due primarily to a variety of tax planning techniques.

The top individual rate, which was only 28 per cent in 1986, has been increased to 38.6 per cent (scheduled to go down to 35 per cent by 2006). Long-term capital gains of individuals are generally taxed at a rate of 20 per cent.

2. Nature of the company/shareholder tax system

The US tax system is classical, i.e. corporate income is taxed to the corporation at the corporate rate, and dividends are taxed to shareholders at their rate. This can be illustrated by the following example for an individual shareholder at the top bracket (ignoring state taxes):

Company	
Company income	100
Company tax (35%)	35
After-tax company income	65
Shareholder	
Dividend	65
Individual's income	65
Individual's tax (38.6%)	25

* Irwin I. Cohn Professor of Law and Director, International Tax LL M, the University of Michigan; the author would like to thank Emil Sunley for his very helpful comments.

Result	
Total tax	60
Shareholder income after tax	40

For corporate shareholders, this result is mitigated by a dividends received deduction ranging from 70 per cent to 100 per cent of dividends received. In addition, there are many tax-exempt shareholders, such as universities and pension funds.

The classical system is mitigated somewhat by the preferential rate for capital gains of individuals (20 per cent), which generally applies to corporate shares held over one year. The effect of the capital gains preference can be illustrated by the following example, in which a first shareholder invests 10 in the shares of a company and then sells them before a dividend is paid. Note that capital losses cannot generally be used to offset dividend income:[1]

Company	
Company income	100
Company tax (35%)	35
After-tax company income	65
First shareholder	
Cost of shares	10
Sale price of shares	75
Individual's income (capital gain)	65
Individual's tax (20%)	13
Second shareholder	
Dividend	65
Total income from dividend	65
Cost of shares	75
Sale price of shares	10
Loss on sale of shares	(65)
Net shareholder tax (38.6%)	25
Result for first shareholder	
Total tax	48
Shareholder income after tax	52
Result for second shareholder	
Total tax	25
Shareholder income after tax	(25)[2]

Thus, the first shareholder is significantly better off than if he had received a dividend, while the second shareholder is worse off.[3] This represents an incentive for

1 This and the following example assume that capital gains reflect retained earnings. Of course, capital gains may also reflect other factors such as good will, discovery of natural resources, decline in inflation or appreciation in the currency, speculative bubbles, etc. If a company has no retained earnings and profits, a distribution may be treated more favorably (as a return of capital) than realized capital gains.

2 Representing 40 in cash from the dividend, minus 65 in capital loss carryover (to be used against future capital gains).

3 Assuming that the dividend tax is not capitalized into the price of the shares.

retentions, and indeed US corporations pay few dividends (preferring to redeem shares, which can often qualify for the capital gains rate). However, in the past they paid more dividends under the same system, suggesting other factors may play a role. The above results also create an incentive to sell shares to tax exempt or corporate shareholders, who are not taxed fully on the dividend.

Note that the above results only apply if the first shareholder has held the shares for over a year. If not, he would be taxed on the capital gain at the full 38.6 per cent rate, so that the result for him would be the same as if he had received a dividend:

Company	
Company income	100
Company tax (35%)	35
After tax company income	65
First shareholder	
Cost of shares	10
Sale price of shares	75
Individual's income (capital gain)	65
Individual's tax (38.6%)	25
Second shareholder	
Dividend	65
Total income from dividend	65
Cost of shares	75
Sale price of shares	10
Loss on sale of shares	(65)
Net shareholder tax (38.6%)	25
Result for first shareholder	
Total tax	60
Shareholder income after tax	40
Result for second shareholder	
Total tax	25
Shareholder income after tax	(25)[4]

There are some rules designed to prevent unnecessary retentions (the accumulated earnings tax), although they are not very effective since they depend on a showing that the corporation does not need the earnings for a valid business purpose. In addition, the personal holding company rules tax corporations that are closely held and have primarily passive income at the top individual rate, but the rate difference is small (and scheduled to disappear by 2006).

[4] Representing 40 in cash from the dividend, minus 65 in capital loss carryover (to be used against future capital gains).

3. International taxation and company/shareholder taxation

3.1. Dividends – US as the source country

When a US resident corporation (defined for US tax purposes as any corporation incorporated in the US) pays a dividend to a non-resident shareholder, the dividend is generally subject to a 30 per cent withholding tax. US tax treaties typically reduce the rate to 5 per cent in the case of direct investors and 15 per cent in the case of portfolio investors, although the recently signed US–UK tax treaty has a 0 per cent rate for direct investors (defined as holding over 25 per cent in most cases).

If a foreign corporation (defined as any corporation incorporated outside the US) pays a dividend from US source earnings to foreign shareholders, the dividend may in some cases be subject to tax. However, this tax is rarely collected and the US routinely waives its right to collect it under tax treaties. On the other hand, US branches (permanent establishments) of foreign corporations are subject to a branch profits tax of 30 per cent (5 per cent under treaties) on the "dividend equivalent amount", which is the amount of taxable profits withdrawn from the US in any given tax year. The right to collect the branch profits tax has by now been incorporated into most US tax treaties. The branch profits tax, when it applies, serves as an effective substitute for taxation of US source dividends paid by foreign corporations to foreign shareholders.

The results of these rules is that in most cases the US collects two levels of tax on inbound investment, whether in the form of a subsidiary or in the form of a branch. This replicates the tax treatment of domestic investors, although treaty rate reductions may result in a significantly lower total rate being levied on foreign investors.

3.2. Dividends – US as the residence country

Portfolio dividends received by US shareholders from foreign corporations are fully taxed. A foreign tax credit is available, subject to limitations, for any withholding taxes levied on the dividend by the source country (but not for taxes paid by the distributing foreign corporation).

Direct investments received by US corporate shareholders owning at least 10 per cent by vote of the shares are taxable (and no dividends received deduction is available, unlike a corporate investment in a domestic corporation). However, the foreign tax credit is available, subject to limitations, for any foreign withholding tax and also for any foreign tax paid by the distributing corporation. The foreign tax credit typically eliminates any residual US taxation of foreign source direct dividends.

Thus, portfolio foreign source dividends are subject to tax in the same way as dividends from domestic corporations. Direct foreign source dividends are typically not subject to US tax, like direct domestic source dividends.

A few US treaties have in the past sought to obtain for US investors the benefits of imputation tax credits (e.g. the old US–UK treaty), but these are unusual and are being phased out.

3.3. Capital gains – US as the source country

In general, the US does not tax capital gains of foreign portfolio or direct investors in US corporations. The exception is US corporations more than 50 per cent of whose value is US real estate. Nor does the US tax capital gains of shareholders from shares in foreign corporations that derive profits from the US. This treatment contrasts with the treatment of domestic investors in US companies, who are generally taxable on their capital gains (albeit at a preferential rate).

3.4. Capital gains – US as the residence country

Retained earnings of foreign corporations are subject to US taxation under an elaborate set of "anti-deferral" rules, which apply to passive income. Direct investors holding 10 per cent or more by vote of a CFC are subject to tax on deemed dividends on the CFC's "Subpart F income" (generally, passive income plus certain types of low-taxed active income). Portfolio investors holding shares in a PFIC (a foreign corporation with over 75 per cent passive income or over 50 per cent passive assets) are taxed either currently on the PFIC's income, or with an interest charge on distributions or sales, or on a mark to market basis.

Capital gains of US resident investors in foreign corporations are taxed on the same basis as gains from the sale of shares in domestic corporations (i.e. at the preferential 20 per cent rate for long-term individual investors), with a foreign tax credit available only if the gain is considered foreign source (which would rarely be the case, unless a treaty governs). US tax treaties generally seek to eliminate source-based taxation of capital gains. There is no distinction between direct and portfolio investment. Generally, therefore, double taxation applies to capital gains if the foreign corporation was taxed at source, mitigated by the preferential rate.

3.5. Circular and conduit situations

There are no special rules for circular situations. A US shareholder in a foreign corporation with a US business will be taxed on dividends and capital gains, and the foreign corporation will be subject to both direct corporate tax and branch profits tax on its US source profits. A foreign shareholder in a US corporation with a foreign business will be subject to withholding tax on dividends (but no tax on capital gains), and the corporation will be subject to US tax on its foreign earnings.

3.6. Non-discrimination

The above rules generally do not discriminate against foreign investors, in comparison with the treatment of domestic investors. The one exception is the branch profits tax, but this is justified as a way of equalizing the treatment of foreign investors with branches and subsidiaries, and of indirectly taxing the ultimate foreign shareholders in the same way US shareholders are taxed (i.e. double taxation). Recent US treaties explicitly permit the tax to be levied.

4. International tax planning to relieve company/ shareholder double taxation

4.1. Source-country perspective

A foreign investor in a US corporation can avoid double taxation in a variety of ways. Most obviously, since capital gains are generally not subject to US source-based tax, the foreign investor (direct or portfolio) can avoid double taxation by refraining from dividend distributions and instead selling the shares. Similarly, the branch profits tax is most easily avoided by retaining the profits in the US.

Another common technique used by portfolio investors to avoid US taxation of dividends (at 30 per cent or at least 15 per cent) is to enter into a total return equity swap with a domestic US investment bank, which in turn purchases the underlying shares of a US corporation. When the corporation pays a dividend, there is no withholding tax since the dividend is paid to a domestic shareholder. The bank reports the dividend as income but takes an offsetting deduction for a dividend equivalent amount it pays under the equity swap to the foreign investor. Under source rules, the dividend equivalent amount is not subject to withholding tax. The IRS is aware of this situation but has done nothing to stop it, perhaps to encourage inbound portfolio investment.

Another technique to avoid taxation of dividends is to substitute interest payments, which are generally not subject to withholding tax for portfolio investors even in the absence of a treaty (and may not be subject to withholding tax under treaties to direct investors). For direct investors, this technique is subject to thin capitalization limits.

Finally, it is conceivable that in the future more US tax treaties will be negotiated with a 0 per cent withholding rate for direct dividends, like the new US–UK treaty.

4.2. Residence-country perspective

It is difficult to avoid double taxation for US portfolio investors in foreign corporations. Dividends are taxable in full (subject to the foreign tax credit for withholding taxes), and capital gains are also taxable (albeit at a preferential rate for long-term individual investors). Direct investors, on the other hand, typically pay no US tax on dividends because of the foreign tax credit, although they are fully taxable on capital gains.

Tax planning efforts by direct investors have therefore focused on ensuring that the total effective rate of tax (corporate and withholding) in the foreign source country does not exceed the foreign tax credit limitation. This can be achieved without triggering CFC inclusions by the use of hybrid entities that are treated as corporations for foreign purposes and branches for US purposes. For example, in one transaction an operating German subsidiary with high-tax active income formed a Luxembourg entity, which was treated as a corporation for German and Luxembourg purposes but as a branch under check the box. The Luxembourg entity then lent money to the German corporation, which reduced its effective tax rate by making deductible interest payments to Luxembourg (which does not tax the interest). For US purposes, the "loan" from a branch was ignored and therefore the "interest" did not constitute Subpart F income. Attempts by the Treasury to combat such transactions were postponed under pressure from Congress until 2006.

5. Discussion and suggestions

Historically, there have been three reasons for countries to adopt corporate/shareholder integration:

(a) Under the classical system, there is a bias to conduct business in non-corporate forms, since they are not subject to double taxation (although this is mitigated if the individual rate exceeds the corporate rate, since in corporate form the individual tax can be deferred).

(b) Under the classical system, there is a bias to avoid dividend distributions and instead retain earnings, thus avoiding the double tax.

(c) Under the classical system, there is a bias in favor of capitalizing corporations with debt (producing deductible interest) rather than equity (producing non-deductible dividends).

None of these reasons is completely convincing in the US context, which may be a reason why the US has maintained the classical system since 1936 (and indeed strengthened it in 1986 with the repeal of the "general utilities" doctrine, which enabled corporations to avoid corporate tax on appreciated assets). First, the alleged bias against the corporate form is mitigated by the excess of the individual rate over the corporate rate (although that excess is much lower now than it was before 1986, and is scheduled to disappear) and by the absence of strong provisions to prevent retentions in the domestic context. In addition, under current rules, the classical system applies primarily to large, publicly traded corporations, while small, closely held businesses are able to avoid the double tax even if they are in corporate form for non-tax purposes. It is doubtful if there is sufficient substitutability between the two forms of business for the double tax to create much deadweight loss. The double tax is a price large businesses have to pay for access to the public equity markets and the liquidity that accompanies such access. Finally, to the extent that the corporate tax can be shifted to consumers or to labor, the bias disappears, and even the Treasury's 1991 integration study has suggested that considerable shifting can take place. (The bias reappears again if non-corporate businesses can likewise shift the individual tax burden, but it seems plausible that the shifting potential of large multinationals is larger than that of small, closely held businesses.)

Second, the bias in favor of retentions is mitigated by the ability of corporations to redeem shares from shareholders at the favorable capital gains rate, and by the fact that numerous shareholders are tax exempt or corporate (and thus do not pay a full tax on dividends). Indeed, even US corporations that used to pay dividends have now generally moved to structured redemption programs addressed to their taxable individual shareholders. Other corporations (especially high-tech ones) retain all their earnings, but it is not clear that this is primarily tax motivated (corporations used to pay dividends under the same rules in the past). Finally, there is an unresolved debate among economists whether the dividend tax is capitalized into the price of the shares. If it is, then the retention bias applies only to new equity, but new equity is unlikely to pay dividends for non-tax reasons.[5]

Third, the bias in favor of debt and against equity is a general problem of the income tax, which should not be addressed only in the corporate tax area. Moreover, to address it completely it is necessary to make dividends deductible, a form of integration that is never adopted (in part because it will automatically extend integration to foreign and tax-exempt shareholders). If integration takes the normal forms of imputation or dividend exemption, there is still a difference in treatment between interest and dividends that can be manipulated.

Finally, and most importantly for present purposes, all of these biases need to be offset by the countervailing biases created by integration in the international context. Two situations need to be considered: when the source country is integrationist and the residence country classical, and when the source country is classical and the residence country integrationist.

5.1. US as residence country

If a US resident portfolio investor invests in shares of a company of an integrationist country, the resulting bias depends on the form taken by integration. If the source country grants integration in the form of dividend exemption, the US investor would not benefit since the US would tax him on the dividend without allowing a foreign tax credit for underlying corporate taxes. A domestic source country investor would therefore be subject only to the corporate tax, while the US investor would be subject to the corporate tax, any withholding tax on dividends, and the residual US tax.

If the source country grants integration by way of imputation credits, the key issue is whether such credits are extended to foreign investors (by treaty or otherwise). If (as is typical) the credits are not extended to foreigners, a domestic investor would only be subject to tax at his or her individual rate, while the US investor would be subject to tax at the corporate level, any withholding tax on dividends, and the residual US tax. Whether the combination of these taxes exceeds the source country tax on domestic investors depends on how high the

5 The burden would still fall on the shareholders when they sell their shares, but this is mitigated by deferral until sale and by the capital gains preference.

source country rates are (it is conceivable, for example, that the combined tax on the US investor of 60 in the example above would be matched by the single level source country tax on a domestic investor).

If the imputation credits are extended to US investors, a different bias arises. In that case, both domestic and US investors in a foreign corporation would be taxed the same from the source country's perspective, except that the cost of imputation credits to US investors would be borne by the source country and any tax on the dividend collected by the US. From a US perspective, however, there would be a bias in favor of investing in source country corporations and against investing in US corporations, since only dividends from the former would carry the imputation credits. Such a bias would not be eliminated by the US taxing the dividends in full, since the investor would still receive an imputation credit check from the source country treasury.

5.2. US as source country

If the foreign residence country grants integration by way of dividend exemption, presumably the exemption would apply to dividends from US as well as from domestic corporations.[6] In that case, a bias is created in favor of foreign investors in US companies, since they would be exempt from tax on the dividend (unless a US withholding tax applies, but such taxes are reduced by treaty or avoided). A US domestic investor would be taxable on the dividends in full.

If the foreign country grants integration by way of imputation credits, there will be no credits available for an investor who invests directly in a US company. In that case, there will be a bias in favor of investing in domestic corporations. This bias may be partially eliminated if credit is given for US taxes to a domestic portfolio investor in a domestic company with US source income. But that would create a bias in favor of foreign investors in such companies over US investors in a domestic US corporation.

6. Conclusion and recommendation

In general, there seems to be no reason to assume that the biases created by integration from an international perspective are less important than the biases created by the classical system from a domestic perspective. In fact, the former may be gaining in importance as cross-border investment grows, while there are reasons to doubt the importance of the latter. This may be the reason why many countries (e.g. Japan, Germany and the UK) have recently been abolishing or restricting integration. If the whole world reverted to the classical system, the international biases would be eliminated.[7]

6 This is true for many dividend exemption countries but not for others.

7 The biases may also be eliminated if all countries adopted integration in similar ways. However, under current imputation systems, domestic investment in local companies is generally favored

Nevertheless, in the foreseeable future, some countries will continue to grant integration, while others (including the US) are likely to maintain a classical system. In that situation, it is necessary to make a choice between the international biases described above, which is similar to the choice between capital import neutrality (treating all investors in the source country alike) and capital export neutrality (treating all investment opportunities to a resident investor alike). Since most of the empirical evidence continues to suggest that the elasticity of the demand for capital is greater than the elasticity of the supply of capital, most economists would support a continued preference for capital export neutrality (neutrality in the allocation of investments) over capital import neutrality (neutrality in the allocation of savings).

If one prefers capital export neutrality, this suggests that integrationist source countries should not extend integration benefits to foreign investors (since that would violate CEN while maintaining CIN). This is consistent with current practice. When the integrationist country is the residence country, integration benefits should be extended to investments in classical source countries. This can be done by granting integration credits for taxes paid to the source country, either through a domestic corporation (which is common) or even through a foreign corporation (less common but possible – it is equivalent to granting the indirect foreign tax credit to portfolio US investors, which would raise many difficult administrative issues). A simpler solution, however, is to exempt dividends from both domestic and foreign corporations. This would still leave a possible bias in the form of a dividend withholding tax imposed by the source country (plus a branch profits tax if the investment is through a foreign corporation), but in the case of the US portfolio investors can usually avoid the dividend withholding tax.

I would thus recommend that integrationist countries adopt a dividend exemption method of integration, and apply it to both domestic and foreign source dividends.[8] As far as the US is concerned, I would recommend abolishing the dividend withholding tax and the branch profits tax. This would violate CIN but would retain CEN, since the double tax would continue to apply to foreign investors from classical countries but only the corporate tax would apply to foreign investors from integration countries with a dividend exemption in place.

cont.

and inbound and outbound investment discouraged (although ordering rules for distributions may mitigate this bias). This situation may persist even if all countries adopted integration. In addition, the current trend seems to be toward abandoning integration rather than adopting it.

8 An alternative solution would be for countries to tax corporate profits and dividends each at about half the top personal tax rate. The tax on corporate source income would therefore be equal to the personal tax but collected in two pieces, one piece when the income is earned and the other when it is distributed. The source country would tax the profits and the residence country the dividends. This would, however, require a higher degree of cooperation than the solution proposed in the text.

Résumé

Les États-Unis possèdent un système fiscal classique pour l'imposition des sociétés et de leurs associés; c'est-à-dire que le revenu est imposé au niveau de la société tandis que les associés sont imposés sur les dividendes, sans exemption ni crédit pour les impôts sur les sociétés payés. La double imposition est quelque peu atténuée par un taux d'impôt préférentiel sur les gains en capital à long terme, qui est également applicable à de nombreux rachats de sociétés. Ce régime est également étendu à l'échelle internationale. Les États-Unis imposent les sociétés nationales sur leur revenu et perçoivent une retenue à la source de 30 pour cent (réductible par convention à 5 pour cent pour les investisseurs directs et à 15 pour cent pour les investisseurs en portefeuille) sur les dividendes payés aux actionnaires étrangers. Néanmoins, les gains en capital des investisseurs étrangers (investissement en portefeuille ou direct) ne sont pas imposés. Les États-Unis imposent également les sociétés étrangères sur le revenu de leurs succursales aux États-Unis et grèvent d'un impôt sur les bénéfices des succursales les bénéfices générés par une succursale nationale. En tant que pays de la résidence, les États-Unis imposent les dividendes payés tant aux investisseurs directs qu'aux investisseurs en portefeuille dans des sociétés étrangères, et ont des règles très précises pour empêcher la rétention de revenus étrangers à taux fiscal privilégié. Les retenues à la source perçues par des pays de la source étrangers sont généralement imputables; toutefois, seuls les investisseurs directs dans une société peuvent imputer les impôts d'une société sous-jacents. Ce régime établit généralement la neutralité entre les investisseurs étrangers et nationaux (les uns et les autres sont assujettis à la double imposition, sauf sur les gains en capital) mais crée des déséquilibres lorsqu'un résident des États-Unis investit dans un pays intégrationniste ou qu'un investisseur étranger originaire d'un pays intégrationniste investit aux États-Unis. Le rapport recommande d'atténuer quelques-uns de ces déséquilibres en demandant au pays intégrationniste étranger d'exempter les dividendes en provenance de sociétés des États-Unis, et aux États-Unis de supprimer sa retenue à la source sur les dividendes et l'impôt sur les bénéfices des succursales. Aucun changement n'est recommandé pour le traitement classique en vigueur d'un investisseur des États-Unis dans un pays intégrationniste.

D'une manière générale, les États-Unis ont un système d'imposition classique pour les sociétés et leurs associés, quelque peu atténué par un taux d'imposition préférentiel pour les gains en capital. Le système classique est également applicable aux investisseurs étrangers dans des sociétés et entreprises des États-Unis, et aux investisseurs des États-Unis dans des sociétés étrangères.

Zusammenfassung

Die Vereinigten Staaten haben ein klassisches Steuersystem für die Besteuerung von Körperschaften und ihren Gesellschaftern, d.h. Einkommen der Körperschaft wird auf der Ebene der Körperschaft besteuert und Gesellschafter werden in Bezug auf Dividenden besteuert, ohne Befreiung oder Anrechnung gezahlter Körperschaftssteuern. Die Doppelbesteuerung wird zum Teil gemildert durch einen Vorzugssteuersatz für langfristige Kapitalgewinne, der auch für zahlreiche Aktieneinziehungen gilt. Dieses System wird auch auf internationale Verhältnisse angewandt. Die USA besteuern ihre inländischen Körperschaften mit ihrem Einkommen und erheben eine Quellensteuer von 30 Prozent (durch Abkommen auf 5 Prozent für Direktanleger und 15 Prozent für Portfolio-Anleger reduzierbar) auf Dividenden, die an ausländische Gesellschafter gezahlt werden. Es gibt jedoch

keine Kapitalgewinnsteuer für ausländische Anleger (Portfolio- oder Direktanleger). Die USA besteuern ferner ausländische Körperschaften in Bezug auf das Einkommen ihrer Niederlassungen in den USA und erheben eine Niederlassungsgewinnsteuer auf Gewinne, die von einer inländischen Niederlassung abgezogen werden. Als Wohnsitzland besteuern die USA Dividenden, die sowohl an Direkt- als auch an Portfolio-Anleger in ausländischen Körperschaften gezahlt werden, und es gibt ausgefeilte Vorschriften, um eine Nichtausschüttung niedrig besteuerter ausländischer Erträge zu verhindern. Im Ausland erhobene Quellensteuern sind im Allgemeinen anrechenbar, doch können nur Körperschaften in ihrer Eigenschaft als Direktanleger die Anrechnung gezahlter Körperschaftssteuern in Anspruch nehmen. Das System ist im Allgemeinen in Bezug auf ausländische und inländische Anleger neutral (beide unterliegen der Doppelbesteuerung, ausgenommen auf Kapitalgewinne), bewirkt aber Verzerrungen, wenn ein Ansässiger in den USA in einem Land mit Integrationsbesteuerung investiert oder ein Ausländer aus einem Land mit Integrationsbesteuerung in den USA investiert. Der Bericht empfiehlt, einige dieser Verzerrungen dadurch zu beseitigen, dass das Land mit einer Integrationsbesteuerung Dividenden einer US-Körperschaft von der Steuer befreit und die USA ihre Quellensteuer auf Dividenden sowie die Niederlassungsgewinnsteuer abschaffen. In Bezug auf die derzeitige klassische Behandlung eines US-Anlegers in einem Land mit Integrationsbesteuerung wird keine Änderung empfohlen.

Im allgemeinen haben die Vereinigten Staaten ein klassisches Steuersystem für Körperschaften und Gesellschafter, das zum Teil durch einen Vorzugssteuersatz für Kapitalgewinne gemildert wird. Das klassische System gilt auch für ausländische Anleger in US-Körperschaften und US-Unternehmen sowie für US-Anleger in ausländischen Körperschaften.

Resumen

EEUU tiene un sistema tributario clásico en lo que se refiere al gravamen de las sociedades y sus accionistas, es decir, la renta tributa a nivel de la sociedad y los accionistas tributan por los dividendos, sin exención ni crédito fiscal por los impuestos pagados. La doble imposición se ve algo atenuada por un tipo impositivo preferente sobre las plusvalías a largo plazo, y que es también aplicable a muchas recompras de sociedades. Este régimen se extiende a escala internacional. EEUU grava la renta de las sociedades nacionales, y establece una retención en la fuente del 30 por ciento (reducible por convenio al 5 por ciento para inversores directos y al 15 por ciento para los de cartera) sobre los dividendos pagados a los accionistas extranjeros. No tributan las plusvalías de inversores extranjeros (inversiones de cartera o directos). EEUU grava también la renta de las sucursales en el país de sociedades extranjeras y los beneficios generados por una sucursal nacional. Como país de residencia, EEUU grava los dividendos pagados a inversores directos y de cartera de sociedades extranjeras, y cuenta con reglas muy precisas para impedir la retención a tipos privilegiados de rentas extranjeras. Son generalmente imputables las retenciones en la fuente de países del extranjero; no obstante, únicamente los inversores directos de una sociedad pueden imputar los tributos sociales subyacentes. Este régimen es, en general, neutral respecto de inversores nacionales y extranjeros (unos y otros sujetos a doble imposición, salvo en plusvalías), pero crea desequilibrios cuando un residente de EEUU invierte en un país integracionista o viceversa. La ponencia recomienda atenuar algunos desequilibrios demandando al país integracionista extranjero, exima los dividendos procedentes de sociedades de EEUU y a los EEUU suprima su retención en la fuente sobre los

dividendos y al impuesto sobre beneficios de sucursales. No se recomienda ningún cambio del tratamiento clásico vigente para inversores de EEUU en un país integracionista. En general, EEUU tiene su sistema tributario clásico sobre sociedades y sus accionistas, algo atenuado por un tipo impositivo preferente sobre las plusvalías, sistema que es también aplicable a los inversores extranjeros de sociedades y empresas de EEUU y a los inversores nacionales en sociedades extranjeras.