PROANALYSIS

WHAT YOU NEED TO KNOW ABOUT

The Status of a Global Corporate Tax Agreement

BY TOBY ECKERT AND TAYLOR MILLER THOMAS | 08/27/2021 03:31:06 PM EDT

PRO POINTS

- **After years of stop-and-start negotiations, more than 130 nations reached an agreement in July to** make sweeping changes in corporate taxes, including a minimum tax rate.
- **Negotiators hope to finalize an agreement by October, including on the tricky issue of what gets** taxed by which countries.
- **The deal still faces big obstacles, among them how the Biden administration gets it through** Congress and overcomes opposition from some countries that are balking.

HOW WE GOT HERE

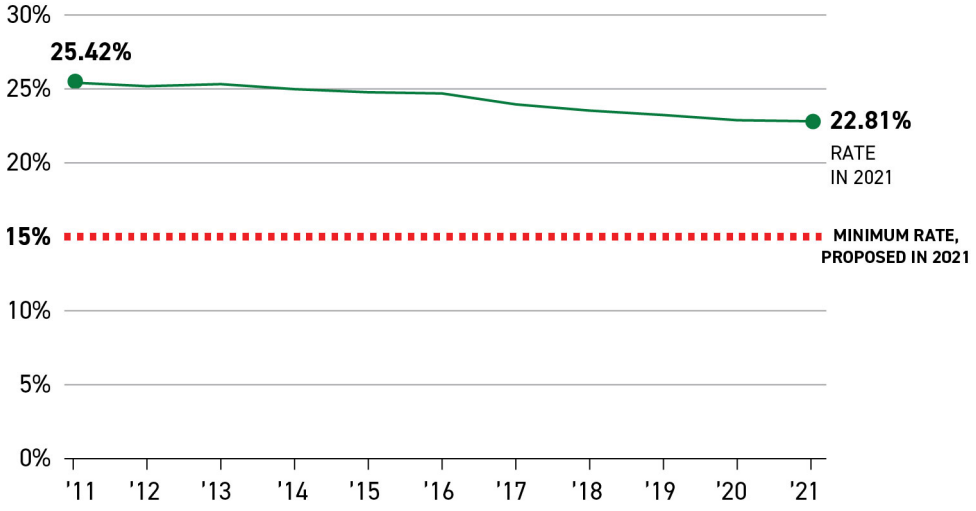
The negotiations, being facilitated by the Organization for Economic Cooperation and Development, are part of a broader process that dates to 2013 aimed at combating tax avoidance by multinational corporations, which often shift their profits to countries with very low tax rates. Originally, the discussions centered on how to tax technology giants like Google, Amazon and Facebook, which operate worldwide but usually don't have a corporate presence that would allow them to be taxed by countries where they earn profits.

That focus on a few firms was met with bipartisan opposition in the U.S., where those companies are based. The Trump administration sidelined the talks in 2020, after demanding a clause that would have essentially allowed U.S. companies to opt out of some taxes. The Biden administration revived the negotiations not long after taking office, with Treasury Secretary Janet Yellen dropping the opt-out demand and then proposing to expand the minimum tax beyond technology companies. The moves were partly driven by domestic politics, since President Joe Biden wants to boost taxes on U.S. corporations but not put them at a disadvantage to their foreign competitors.

A breakthrough came in July, when the negotiators announced a deal for a global tax rate of at least 15 percent for the world's 100 biggest companies. More than 130 countries have signed on.

OECD average tax rate has drifted lower in past decade

OECD AVERAGE CORPORATE TAX RATE



Sources: KPMG, OECD

WHAT'S NEXT

The negotiators are aiming to finalize the agreement by October, with the new rules taking effect in 2023. But many details still need to be hammered out, including how to divvy up countries' taxing rights.

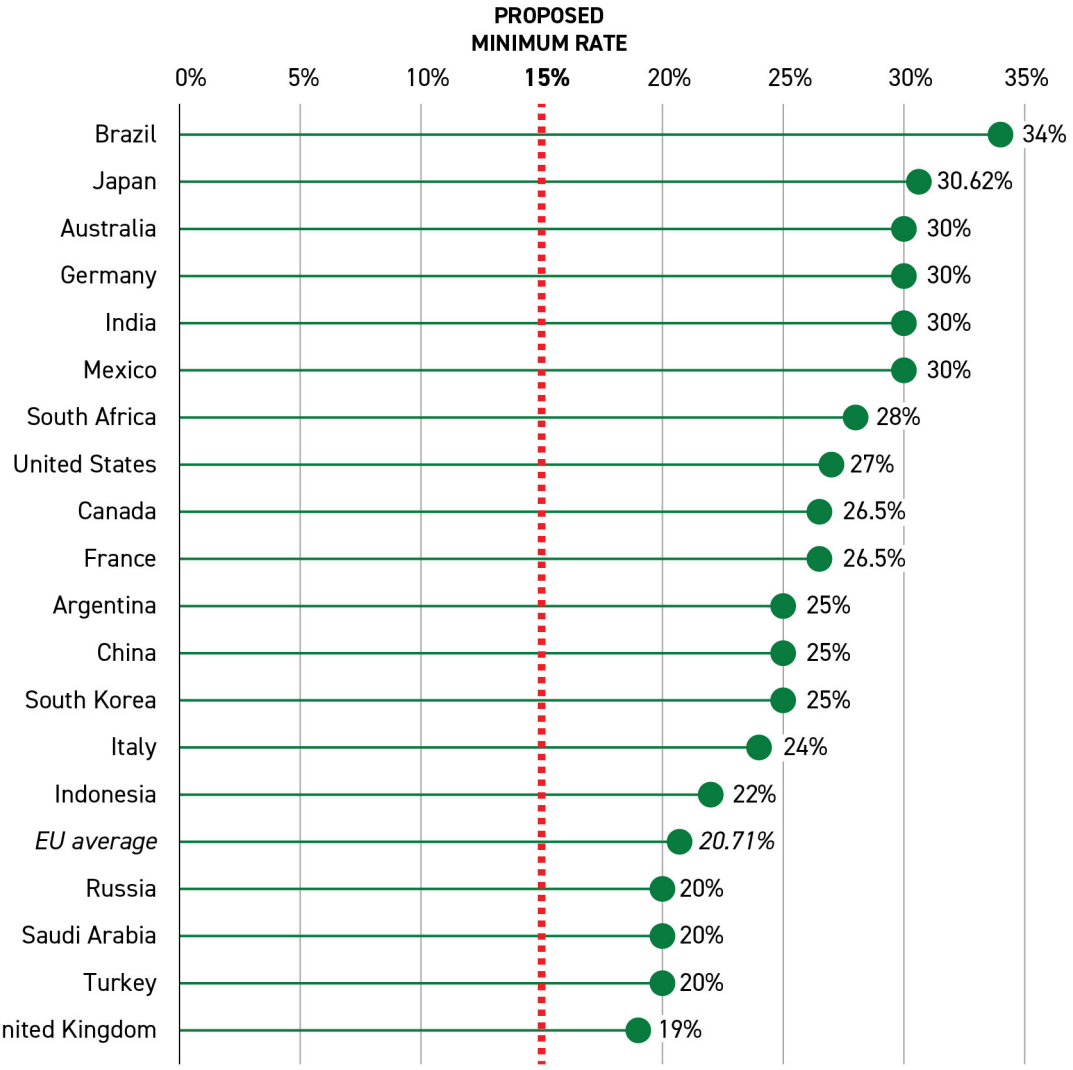
Congress could pose a major obstacle to U.S. participation. Republicans and some Democrats are worried that Biden's plans to boost corporate taxes, including expanding a tax on intellectual property and other intangible assets known as GILTI, will put U.S. companies at the very competitive disadvantage that the Biden administration says it wants to avoid with a global minimum. Biden has proposed doubling the GILTI tax rate to 21 percent and broadening its scope to companies' profits in general. "Enacting tax increases above and beyond the final implemented OECD agreement, or getting out too far ahead of our OECD partners, would risk U.S. international competitiveness," a group of moderate Democrats recently said in a letter to House Ways and Means Committee Chair Richard Neal (D-Mass.), echoing concerns raised by Republicans.

Some elements of a global agreement may also require changes to tax treaties. Approving them would require a two-thirds majority vote in the Senate, a threshold Democrats are far from being able to meet. There has been talk of incorporating some parts of the global agreement into the spending package that Democrats plan to push through this fall without Republican support.

Another big obstacle looms in Europe. While the OECD says 133 countries nationwide have signed on to the agreement, there are some notable holdouts, including Ireland, Hungary and Estonia, who are concerned it will hobble their ability to use favorable tax rates to attract corporations. All three are members of the European Union, which requires unanimous agreement among member countries to enact tax changes.

Tracking the corporate tax rates among G-20 countries

CORPORATE TAX RATE IN 2021 AMONG G-20 COUNTRIES



Sources: KPMG, OECD

POWER PLAYERS

- **Treasury Secretary Janet Yellen:** After getting the global talks back on track, Yellen and her deputies were key to getting the agreement sealed in July. Yellen will eventually have to sell it to Congress. Her rallying cry is that it will end the "race to the bottom" among countries trying to lure businesses with ever-lower tax rates.

- **Itai Grinberg, deputy assistant Treasury secretary for multilateral tax:** Grinberg is the lead U.S. representative at the OECD talks. He served in Treasury's Office of the International Tax Counsel in the George W. Bush and Obama administrations. After that, Grinberg was a law professor at Georgetown University, and he was an outside adviser to several multilateral organizations, including the OECD.

- **House Ways and Means Committee Chair Richard Neal (D-Mass.) and Senate Finance Chair Ron Wyden (D-Ore.):** As the top two tax writers in Congress, Neal and Wyden will be responsible for shepherding any final agreement through Congress. They have embraced the July deal, saying it "lays a foundation to move forward" on leveling the playing field on taxes and would "put an end to discriminatory digital services taxes."

- **Rep. Kevin Brady (R-Texas) and Sen. Mike Crapo (R-Idaho):** The top Republicans on Ways and Means and Finance gave a frigid reception to the deal Yellen helped negotiate. They are likely to be an obstacle, especially if Republicans win control of Congress in next year's elections. Brady and Crapo told Yellen in July that the agreement was tilted against U.S. interests, saying in a letter that "Congressional support for an agreement at the OECD will hinge on protecting American workers and the U.S. tax base."