

API TAX PRINCIPLES

INTERNATIONAL TAX REFORM

The American Petroleum Institute (API) supports improvements to the current system of taxation of international operations. Whether those improvements are part of an overall tax reform effort or more targeted legislation, any change must be consistent across all businesses and should improve overall competitiveness of all industries operating abroad.

Reforms should not weaken the competitiveness of one industry in order to address issues faced or presented by another industry. Our positions on international tax policy are as follows:

- **Any change to taxation of international business income must avoid double taxation of such income.**
- **We could support a move to a territorial/exemption system that is competitive with the tax laws of the other major developed countries and allows U.S. based companies to compete internationally on a level playing field. Any such system should substantially exempt or fully exclude active foreign income tied to substantial foreign activities, including commodity income.**
- **Implementation of any new system must provide fair and equitable transition rules.**
- **A move to a territorial system should retain the use of branches and allow foreign income earned by a branch to be treated under the same principles as any other foreign income a taxpayer may receive.**
- **Legislation that would repeal deferral and currently tax unrepatriated foreign earnings and profits (E&P) must maintain the foreign tax credit regime in place when that E&P was generated in order to avoid double taxation.**
- **In order to provide parity across industries, any changes to the taxation of foreign income must eliminate section 907 as a foreign tax credit limitation/category as well as eliminate foreign base company oil related income (FBCORI) as a Subpart F category.**
- **We support the existing rules for foreign branches. If policy makers are considering changes, existing branch structures should be grandfathered under the current rules.**
- **Changes to the existing rules on an entity's leverage - like altering leverage limitations and introducing a worldwide calculation - are unnecessary. The current rules provide appropriate protections, would work in any proposed exemption system and changes would run counter to arm's length principles and lead to double taxation for taxpayers.**
- **To the extent that interest expense is allocated between US and foreign source income, using FMV of worldwide assets is an equitable, and in many cases, more representative method, of apportioning interest than adjusted tax basis.**