

# **Unilateralism in International Tax Law: A Comparative Study of the U.S. ‘One Big Beautiful Bill’ Proposals and Their Impact on Sino-French Investment Regimes**

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## ABSTRACT

*This research examines the emergence of the U.S. “One Big Beautiful Bill” Act (OBBA) proposals as a transformative unilateral regulatory instrument in international tax law. By shifting from the transitory tax incentives of the 2017 Tax Cuts and Jobs Act (TCJA) to a regime of permanent statutory codification, the OBBA seeks to institutionalize a competitive advantage for U.S. economic sovereignty. This study offers a comparative legal analysis of how France and China have formulated distinct normative responses to this U.S.-led fiscal unilateralism.*

*The analysis shows that France, constrained by the multilateral legal framework of the European Union and the Organization for Economic Cooperation and Development (OECD) Pillar 2 directives, adopts a defense grounded in “multilateral legality,” using transfer pricing audits and digital services taxation to protect its tax base. In contrast, China employs an interventionist “Incentive-Based Defense,” using statutory capital lock-in mechanisms—such as the five-year reinvestment requirement—and industry-specific credits to anchor global productive capital within its jurisdiction. Furthermore, the study examines the systemic expansion of “Foreign Entity of Concern” (FEOC) and “Prohibited Foreign Entity” (PFE) rules as a new form of statutory exclusion that fragments global high-tech supply chains.*

*Ultimately, this paper argues that the OBBA marks a paradigm shift from multilateral cooperation to a “New Cold War of Tax Diplomacy,” in which domestic tax codes serve as primary instruments of geoeconomic rivalry. The resulting legal fragmentation challenges the stability of the global investment environment, replacing traditional tax neutrality with a managed, institutionalized competition between divergent sovereign regimes.*

## I. INTRODUCTION

## A. Background

The legislative proposals colloquially referred to as the “One Big Beautiful Bill” Act (OB BB) represent more than a mere domestic tax overhaul; they constitute a sophisticated unilateral regulatory instrument designed to anchor global capital within the United States by providing an unprecedented level of institutional certainty. The legislative intent is driven by perceived structural distortions in international trade that affect domestic industrial policy. One of the OB BB’s major goals is to ensure the statutory continuity of the tax incentives originally introduced by the Tax Cuts and Jobs Act (TCJA) of 2017,<sup>1</sup> commonly referred to as the TCJA sunset. The OB BB’s primary objective is the permanent codification of investment incentives, notably the stabilization of the 21% corporate income tax (CIT) rate.<sup>2</sup> Furthermore, it envisages a significant recalibration of the subsidy frameworks established under the Inflation Reduction Act (IRA).<sup>3</sup>

The determination of corporate fiscal liability relies on the interplay between the taxable base and the applicable statutory rate.<sup>4</sup> The corporate tax base is the taxable income, or the gain a business realizes, during a specified period. “Over the last few decades, marginal tax rates on corporate and individual income have declined significantly.”<sup>5</sup> This downward trend

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1 China Council for the Promotion of Int’l Trade Dongguan Comm., “One Big Beautiful Bill” Impact on Certain Clean Energy Incentives in the “Inflation Reduction Act”, GOVT INFO. OPENNESS (July 24, 2025) (China) (“One of the key focuses of the Bill is tax reform. One aspect is the extension of a series of tax reduction policies introduced by the Trump administration in 2017, originally set to expire at the end of 2025.”); see also Debbie Jennings, *Inside the One Big Beautiful Bill Act: Major Tax Provisions and Their Impact*, NTUF (July 29, 2025), <https://www.ntu.org/foundation/detail/inside-the-one-big-beautiful-bill-act-major-tax-provisions-and-their-impact> [https://perma.cc/6JAV-CW3G].

2 Yan Guihua, *How Much Impact will Trump’s “Big and Beautiful” Bill have on China?*, SECURITIES TIMES, (July 14, 2025), <https://www.stcn.com/article/detail/2551570.html> [https://perma.cc/462R-S9N4] (“[It] permanent[s] the tax cuts for businesses and individuals from the Tax Cuts and Jobs Act signed by Trump during his first term, including a 21% corporate tax rate, full depreciation of equipment, and full instant [and immediate] deductions for [research and development] R&D expenses”).

3 Alex Muresianu, *How the One Big Beautiful Bill Changes Green Energy Tax Credits*, TAX FOUND. (July 31, 2025), <https://taxfoundation.org/blog/big-beautiful-bill-green-energy-tax-credit-changes/> [https://perma.cc/WB77-DJRE] (The Inflation Reduction Act of 2022 (IRA) is a landmark U.S. federal law aimed at curbing inflation by reducing the deficit, lowering prescription drug prices, and investing in domestic energy production while promoting clean energy. In the context of the OB BB, this legislation recalibrates several IRA frameworks, specifically targeting the repeal or reduction of clean energy tax credits—estimated at approximately \$1 trillion in fiscal costs over the next decade—to fund permanent corporate tax reductions and re-shore traditional manufacturing.).

4 Cristina Enache, *Corporate Income Tax Rates in Europe, 2025*, TAX FOUND. (Jan. 14, 2025), <https://web.archive.org/web/20250116122853/https://taxfoundation.org/data/all/eu/corporate-income-tax-rates-europe/> [https://perma.cc/CW3R-UCUT] (“The amount of taxes a business ultimately pays on its profits depends on both the corporate tax base and the corporate tax rate.”).

5 Alex Mengden, *International Tax Competitiveness Index 2025*, TAX FOUND. (2025), [https://taxfoundation.org/wp-content/uploads/2025/10/International\\_Tax\\_Competitiveness\\_Index\\_2025\\_10-21.pdf](https://taxfoundation.org/wp-content/uploads/2025/10/International_Tax_Competitiveness_Index_2025_10-21.pdf) [https://perma.cc/V6K5-SYG4].

in marginal rates has materialized into a global regulatory paradigm shift following the 2019 pandemic. The shrinking economy and the solidification of liquid assets imply a possible continuation of declining tax rates, with the sovereign intent<sup>6</sup> to improve its competitiveness in the international market.<sup>7</sup>

The OBBB functions as the cornerstone of a renewed fiscal orthodoxy, codifying the executive's strategic preference for supply-side incentives.<sup>8</sup> The permanency of the OBBB is, henceforth, the primary legal mechanism for preventing future policy reversals and providing certainty. The Act embodies a neo-mercantilist approach, predicated on the expansive exercise of legislative discretionary power in economic governance.<sup>9</sup> In other words, the OBBB is a historical pivot acting as the largest pro-business legislation in American history, despite its underlying protectionist ideals. The statutory design aims to insulate the fiscal framework from future regulatory instability or subsequent legislative reversals.<sup>10</sup> By codifying a fixed fiscal baseline, the U.S. transforms its tax code into a geopolitical lever that exploits the double taxation vulnerabilities of its allies, effectively challenging the foundational principles of international equity and tax neutrality.<sup>11</sup> The OBBB is identified as the most significant statutory disruption of 2025, with the potential to reshape the existing international tax architecture.<sup>12</sup> Such progressive and potentially revolutionary policy

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6 The concept of sovereign intent refers to the deliberate use of a nation's (in our case, the U.S.' OBBB) legislative and regulatory power to achieve specific national goals, economic or geopolitical at the expense of international cooperation. As I will elaborate further in this paper, for decades, the intent of most developed nations was to work through multilateral organizations to prevent tax evasion and create a market of fairness. The sovereign intent of the OBBB deviates from this perspective by intentionally writing its own rules to prioritize its own economic sovereignty.

7 *Id.* at 1 ("Over the past few decades, marginal tax rates on corporate and individual income have declined significantly").

8 Samuel A. Donaldson, *Understanding the Tax Provisions of the One Big Beautiful Bill Act*, (July 21, 2025), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=5361868](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5361868) [https://perma.cc/4P5R-TRUG] ("Public Law 119-21, . . . commonly known as the 'One Big Beautiful Bill Act,' ('the OBBB Act'), brings to life much of the Republican party's 2025 project . . . [T]axation was at the heart of the OBBB Act.").

9 See *Fact Sheet: The One Big Beautiful Bill Will Fuel America's Economic Growth*, AM. FIRST POL'Y INST. (July 21, 2025), [https://www.americafirstpolicy.com/assets/uploads/files/OBBB\\_Fact\\_Sheet\\_-\\_Economy\\_Trade.pdf](https://www.americafirstpolicy.com/assets/uploads/files/OBBB_Fact_Sheet_-_Economy_Trade.pdf) [https://perma.cc/B5LX-G6FX]

10 See *id.* at introduction ("[It] provides the largest tax cut and pro-business legislation in American history . . . [and] the permanency of many of the provisions will prevent a future administration from rolling these positive gains back."); *id.* at 3 ("[D]isqualifying credits if materials or components come from a designated foreign entity of concern (e.g. China).").

11 See *id.* at 1 ("Importantly, the permanency of many of the provisions will prevent a future administration from rolling these positive gains back.").

12 Mengden, *International Tax Competitiveness Index 2025*, *supra* note 5; see also Alan Cole & Patrick Dunn, *Reviewing the International Tax Provisions in the One Big Beautiful Bill Act*, TAX. FOUND. (Aug. 6, 2025), <https://taxfoundation.org/blog/big-beautiful-bill-international-tax-changes/> [https://perma.cc/U5DY-A5AJ].

restructure has the fiscal motivation through offsetting<sup>13</sup> the spending cuts in clean energy subsidies to fund permanent tax reductions (R&D or bonus depreciation).<sup>14</sup>

### B. Geopolitical Tax Protectionism

The world-power rivalry after the first Trade War in 2016 between China and the United States has shifted from the Cold War heritage of profit allocation<sup>15</sup> to the control over technological sovereignty and the institutional future for national corporations. My research identifies a structural fragmentation of global tax governance across three divergent jurisdictional models: the U.S. with its unilateral attraction-based administration; France or the European Union (EU) with a multilateral and regulatory-defensive structure; and China, known for its strategic industry-specific counter-subsidy incentives. Despite the declining trend of the tax rates over decades, European countries have an average stable CIT at 21.5 percent<sup>16</sup> in comparison to the U.S. CIT at 25.6 percent.<sup>17</sup>

Member states in the Organization for Economic Cooperation and Development (OECD) collect taxes principally from their businesses.<sup>18</sup> Corporations bear the burden of payment liability and tax collection.<sup>19</sup> Although the OBBB has a clear subsidy characteristic and appears to focus on tax reform, the statute indirectly supports domestic industries through extensive tax relief measures. In resource allocation, the OBBB prefers the use of traditional energy, removing tax expenditures in areas that are more

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13 Muresianu, *supra* note 3 (“Given the escalating fiscal cost—approximately \$1 trillion over the next decade—the case for repealing, or at least paring back, the IRA tax credits was strong.”).

14 This policy is revolutionary because it repeals specialized green energy credits through the OBBB which provides the revenue necessary to allow full upfront tax deduction for the cost and make R&D incentives permanent; *See Fact Sheet: The One Big Beautiful Bill Will Fuel America’s Economic Growth*, *supra* note 9.

15 Joonhyung Lee, Duy Nguyen, & Kang Keun Rhee, *The Impact of the US-China Trade War on US Imports from China: Heterogeneity from Causal Machine Learning* (Nov. 3, 2025), <https://ssrn.com/abstract=5709782> [<https://perma.cc/5DGX-BU3R>].

16 Cristina Enache, *Corporate Income Tax Rates in Europe, 2026*, TAX FOUND. (Jan. 13, 2026), <https://taxfoundation.org/data/all/eu/corporate-income-tax-rates-europe/> [<https://perma.cc/3J66-ARRP>] (“On average, the European countries analyzed currently levy a corporate income tax rate of 21.6 percent . . . European countries have experienced a decline in corporate income tax rates over the past four decades, but the average corporate income tax rate has leveled off in recent years.”).

17 *Id.*

18 Cristina Enache, *Taxing Powerhouses: The Systematic Role of Businesses in Collecting Government Revenue*, TAX FOUND. (Apr. 2025), <https://taxfoundation.org/wp-content/uploads/2025/04/FF862-Total-Tax-Contributions.pdf> [<https://perma.cc/34AU-YLHG>] (“Businesses in the Organisation for Economic Co-operation and Development (OECD) pay an average of 37.8 percent of the total taxes collected . . . Businesses in the OECD also collect and remit an average of 47.4 percent of the total tax revenues.”).

19 *Id.* at 1 (“On average, businesses in the OECD are liable for collecting, paying, and remitting more than 85 percent of the total tax collection.”).

favorable to the democratic approach, such as medical care.<sup>20</sup> While distorting the market in ways that favor inequity, such forms of indirect subsidies (not direct tariffs) illustrate the transition towards systemic protectionism, where tax codes are weaponized as instruments of industrial policy.<sup>21</sup>

In contrast, France anchors its strategy in multilateral legality, adhering to the regulatory frameworks of the OECD and the International Monetary Fund (IMF).<sup>22</sup> France's strategy relies on regulatory constitutionalism within the European framework. Unlike the discretionary unilateralism of the U.S., French fiscal policy is circumscribed by the primacy of EU law, necessitating a defense grounded in procedural compliance<sup>23</sup> rather than in substantive fiscal subsidies. The French central bank, Banque de France, presents its position for international investment through three major accounts: the current account for goods, services, and income; the financial account for direct investment, portfolio investment, and other investment; and, lastly, the capital account.<sup>24</sup> In contrast, the Chinese government has a strategic preference for over-financialization and cross-industry arbitrage for the tax incentives.<sup>25</sup>

The tax code is the presentation of the States' economic performance. A well-structured tax code guarantees simplicity, efficiency, and equity, preventing distortion of fiscal decision-making or harms to domestic economies while encouraging taxpayer compliance and economic growth.<sup>26</sup> The OBBB is a direct response to the threat of statutory uncertainty arising from the TCJA sunset, providing assurance, and contributing to economic development.<sup>27</sup> However, it should be noted that a fundamental discrepancy

20 Guihua, *supra* note 2, at 1 (However, “the bill also cut Medical and food stamp programs, which are more favorable to the poor . . . The bill also reduces subsidies for clean energy and increases support for traditional energy sources.”).

21 *Id.* at 4 (“[T]he United States may attract more international direct investment, increasing pressure on China and other countries to attract foreign investment”).

22 *The French Balance of Payments and International Investment Position Annual Report 2024*, BANQUE DE FRANCE 2 (2024), [https://www.banque-france.fr/system/files/2025-10/BDP2024\\_EN\\_web.pdf](https://www.banque-france.fr/system/files/2025-10/BDP2024_EN_web.pdf) [<https://perma.cc/7VPB-9FUS>]. (“[T]he Banque de France is responsible for establishing France’s balance of payments and international investment position . . . in accordance with the methodology recommended by the International Monetary Fund”).

23 Daniel Gutmann & Amélie Nihart, *Pilier Deux: Les Points-Clés des Premiers Commentaires Publiés par l’Administration* [Pillar Two: Key Points of the First Comments Published by the Administration], CMS FRANCIS LEFEBVRE (Dec. 11, 2025), <https://cms.law/fr/fra/news-information/pilier-deux-les-points-cles-des-premiers-commentaires-publies-par-l-administration> [<https://perma.cc/9VBG-V2D9>].

24 Guihua, *supra* note 2.

25 See generally Chaohui Xu et al., *The Role of Tax Incentives in the Alleviation of Corporate Over-Financialization: Evidence from China* (Dec. 21, 2023) (unpublished manuscript), <https://ssrn.com/abstract=4671566> [<https://perma.cc/N5P3-MP6E>].

26 Mengden, *International Tax Competitiveness Index 2025*, *supra* note 5.

27 We should look at the transition between the TCJA and the OBBB. The TCJA introduced significant tax reductions for corporations, but many of its provisions were designed with clauses of lower rates and incentives schedules to expire after a set period, after which the taxes will automatically

exists in U.S. policy decision-making. On the one hand, the OBBB cuts taxes to improve the national economy; on the other side, the concurrent application of import tariffs may create countervailing economic pressures that affect the net benefits of the OBBB tax reductions.<sup>28</sup> It is equally plausible that the imposed tariffs offset the potential benefits brought by the tax cuts in OBBB. In other words, the tariff is unlikely to cover the majority of expenses during the OBBB application, while also failing to ensure gains from international investment due to geopolitical reasons. The complex geopolitical protectionism cannot be translated into a conventional linear model.<sup>29</sup> Neither the proposed US-China G2 nor the US-EU proposes adequate explanations for their contradictions in tax disputes.<sup>30</sup> The interplay between the OBBB's statutory tax reductions and the executive branch's trade policy creates a complex fiscal environment that defies conventional linear economic modeling. While the OBBB provides a 21% corporate tax baseline and 100% bonus depreciation to lower the cost of capital, the concurrent application of import tariffs functions as a regressive tax on the supply chain. It is possible that these tariffs will offset the potential benefits brought by the tax cuts, as they increase the costs of manufacturing inputs and capital equipment essential for domestic expansion.<sup>31</sup> To the extent that these tariffs increase operational overhead, the revenue generated by trade barriers is unlikely to cover the fiscal deficit created by the OBBB's permanent tax expenditures. This creates a policy

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revert to higher previous levels. For a global corporation, this creates statutory uncertainty. The OBBB proposes a statutory codification, permanently removes the threat of the TCJA clauses. Here, the assurance refers to a financial and psychological confidence to investors because the tax code is now permanent. This long-term planning will pull back the capital which will ultimately contribute to the economic development.

28 Erica York & Alex Durante, *Trump Tariffs Threaten to Offset Much of the "Big Beautiful Bill" Tax Cuts*, TAX FOUND. (July 16, 2026), <https://taxfoundation.org/tariffs-OBBB> [<https://perma.cc/HEX7-MXYQ>].

29 In standard economic policy analysis, we assume there is a linear model, which is a predictable, straight line relationship between cause and effect. For example, we may assume if Country A lowers its tax rate, Country A will receive more foreign investment. We simply assume that other countries will react in predictable ways, and their only goal is economic growth. However, with the involvement of protectionism, there are multiple variables taken into consideration, such as national security, technological dominance, and legal sovereignty. If the U.S. passes a bill to attract capital, China might respond with lock the capital within its borders, France may respond with digital service taxes. It creates an interconnected environment rather than a single straight line. It is unable to be translated because these tax strategies operated by countries are so multilayered and involve many actors acting simultaneously. It is difficult to capture the situation with a traditional linear model.

30 See Ying Huang, *Paradigm Reconstruction: From US-EU Tax Battles to the Nonlinear Future of Tech Giants' Quasi-Nationalization* (Nov. 2, 2025), <https://ssrn.com/abstract=5536418> [<https://perma.cc/LB7E-CZJV>].

31 *Id.* at 1 ("Conventional linear models . . . provide inadequate explanations for the structural contradictions). Huang argues that a 21% tax rate plus a tariff doesn't just equal a simple net cost or benefit, but rather a structural contradiction – "Great-power rivalry has consequently shifted from a focus on 'profit allocation' to a struggle for control over "technological sovereignty"". According to Huang, the U.S. would implement tariffs that seemingly offset its own tax cuts. But the goal is not simply a capital growth; it is to regain technological sovereignty. The OBBB and the tariffs functions as complementary products: one attracts capital, the other blocks insecure supply chains.

tension in which the legislative intent to provide certainty is undermined by discretionary trade measures, making it difficult for the proposed US-China G2 or US-EU frameworks to adequately explain these contradictions in tax and trade disputes. Ultimately, this multidimensional protectionism suggests that tax codes alone cannot guarantee capital growth if trade barriers neutralize the resulting cashflow advantages.

### *C. Comparative Legal Models*

This research adopts a triadic comparative methodology to evaluate the systemic interaction between the U.S. OBBB and the divergent investment regimes of France and China. Rather than a mere policy review, this study establishes a normative baseline to examine how the U.S. unilateral, attraction-based model challenges the European Union’s multilateral regulatory defense (represented by France) and China’s interventionist counter-subsidy framework.

The analytical framework proceeds in three distinct stages of legal scrutiny. It first isolates the protectionist mechanisms within the OBBB, specifically the transition from temporary tax expenditures to a permanent statutory baseline, and analyzes the impact of that transition on the principle of tax neutrality. It then examines the extent to which these unilateral measures conflict with the supranational constraints of EU law (notably State Aid prohibitions) and with the Chinese state’s bilateral tax treaty obligations. Finally, the analysis explores how these “legal disruptions” force a strategic adjustment in MNEs’ (Multinational Enterprises) behaviors, evaluating the resulting fragmentation of the international tax architecture.

## II. THE OBBB FOR STATUTORY STABILITY: UNILATERAL FISCAL CODIFICATION

The pursuit of statutory stability in the United States has historically relied on precise legislative interventions—exemplified by the 16th Amendment’s clarification of the constitutional concept of “income”—designed to generate revenue by foreclosing regulatory and common law loopholes. Within this tradition, the One Big Beautiful Bill Act (OBBB) functions as a permanent codification of fiscal certainty. By providing a statutory end to the “Tax Cuts and Jobs Act (TCJA) sunset” cliff, the Act transforms formerly transient tax expenditures into a fixed legal baseline, which is projected to increase long-run GDP by 0.7%<sup>32</sup> by stabilizing R&D

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<sup>32</sup> Daniel Bunn, Alex Muresianu & William McBride, *The Good, the Bad, and the Ugly in the One Big Beautiful Bill Act*, TAX FOUND. (July 9, 2025), <https://taxfoundation.org/blog/one-big-beautiful-bill-pros-cons/> [<https://perma.cc/JZZ9-XH37>].

and expensing provisions.<sup>33</sup> However, this internal statutory coherence is challenged by a contradictory executive preference for trade tariffs, which may offset the Act's intended legal and economic benefits.

*A. Protecting Innovations: The R&D Subsidy Bias*

The primary legal mechanism of the OBBB is the permanent reinstatement of immediate full expensing for domestic Research and Development (R&D) expenditures. By adding I.R.C. § 174A, Congress has effectively reversed the capitalization and five-year amortization requirements established by the 2017 Tax Cuts and Jobs Act (TCJA). This statutory shift is designed to eliminate the tax penalty on innovation by providing an immediate deduction for costs incurred in the year. While this tax base incentive remains quantitatively less generous than China's R&D super-deduction, it prioritizes legal certainty over substantive depth. However, the Act introduces a sharp jurisdictional distinction: while domestic research is fully deductible, foreign-conducted R&D remains subject to a punitive 15-year amortization period under I.R.C. § 174, institutionalizing a fiscal wall that discourages American firms from offshoring intellectual property.

The Act's design challenges the traditional normative principles of neutrality and simplicity often championed by tax scholars.<sup>34</sup> Rather than a broad-based reform, the OBBB selectively shrinks green energy credits from the previous administration while expanding those favored by current industrial policy. This selective expansion is achieved by a flexible interpretation of the principle of prudence<sup>35</sup> in the regulation of public pension funds, which currently represent 13.7%<sup>36</sup> of the funding in the private equity and venture capital markets. By allowing these funds to discount future liabilities at an expected rate of return rather than a risk-free rate, the U.S. has created a regulatory safe harbor for high-risk capital.<sup>37</sup> This illustrates a move toward "neo-mercantilism,"<sup>38</sup> where the tax code is no longer a neutral revenue tool but a lever for national technological rivalry.

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<sup>33</sup> A series of tax rules to encourage business to invest in new productive assets.

<sup>34</sup> Muresianu, *supra* note 3.

<sup>35</sup> *Id.*

<sup>36</sup> Riad Benahmed, *US Regulatory Incentives for Equity Financing: The Essential Role of Public Pension Plans*, BANQUE DE FR.: EUROSISTEME (Nov. 12, 2025), <https://www.banque-france.fr/en/publications-and-statistics/publications/us-regulatory-incentives-equity-financing-essential-role-public-pension-plans> [<https://perma.cc/GBP8-KEXE>].

<sup>37</sup> Guihua, *supra* note 2, at 2 (Various international actors, such as the investments banks of Goldman Sachs and JPMorgan Chase, predict that "in 1-2 years . . . the bill will boost the US GDP growth rate by about 0.4-0.6 percentage points.")

<sup>38</sup> *Id.*

To finance these permanent tax reductions, the OBBB relies on precise statutory drafting<sup>39</sup> to close interpretive ambiguities and generate an estimated \$12.4 billion<sup>40</sup> in additional federal revenue. A key example is the revision of I.R.C. § 707(a)(2)(A),<sup>41</sup> where the phrase “under regulations prescribed by the Secretary” was replaced with “except as provided by the Secretary.” This shift from administrative discretion to statutory self-execution ensures that anti-abuse provisions apply immediately, regardless of whether the IRS has issued formal regulations. Such technical clarifications serve a dual purpose: they strengthen legal certainty for the U.S. tax system while providing the fiscal baseline necessary to sustain massive domestic investment incentives.<sup>42</sup>

In Section 70114 of the Act, Congress further demonstrated its commitment to statutory detail by revising I.R.C. § 165(d), which governs deductions for gambling losses. While publicly criticized for limiting certain offsets, the final legislative text replaced a 90% limit with 100% in key areas during political negotiations. This illustrates that the OBBB is a product of careful legislative bargaining, aiming to provide a clear and predictable ruleset for taxpayers while simultaneously narrowing various minor expenses to fund larger corporate deductions. This rule-of-law approach in domestic drafting is intended to contrast the shifting administrative landscapes found in European and Chinese jurisdictions.<sup>43</sup>

The permanent bonus depreciation, at 100%<sup>44</sup> for short-lived assets, supports the goal of job growth and driving investment. It allows the full upfront deduction for the cost of building or expanding a manufacturing facility. This provision acts as a powerful pull factor, legally incentivizing MNEs to make large, immediate capital expenditures within the U.S. Under the previous law, the 100% bonus depreciation dropped to 40% by 2025. The OBBB reversal lowers entry costs for large-scale industrial projects. The 100% expense boosts long-run GDP by 0.7%,<sup>45</sup> necessary to sustain massive investment volumes in tax cycles. This Act also allows full tax deduction for manufacturing infrastructure costs associated with building or expanding manufacturing factories. The deduction is taken immediately

39 Bunn, Muresianu & McBride, *supra* note 32.

40 Donaldson, *supra* note 8, at 36.

41 *Id.*

42 *Id.* In tax law, under regulations prescribed usually means the law is dormant until the IRS acts. Donaldson’s analysis proves that the OBBB flipped this logic, making the law self-executing and independent of administrative delay. By precise statutory drafting, the OBBB generates the revenue (\$12.4 billion) needed to offset the massive domestic investment incentives (the 21% rate and 100% depreciation). *Id.*

43 Bryan T. Camp, *Taxation of Gambling After the OBBB*, TAX NOTES FED. (Aug. 18, 2025), <https://www.taxnotes.com/special-reports/gains-and-losses/taxation-gambling-after-OBBB/2025/08/14/7sxhn> [<https://perma.cc/8EQB-HZD4>].

44 One Big Beautiful Bill Act of 2025, Pub. L. No. 119-21, 139 Stat. 45 (2025).

45 See Bunn, Muresianu & McBride, *supra* note 32.

rather than following depreciation schedules. This further improves cash flow liquidity for MNEs, enabling them to recover initial capital and reinvest in subsequent domestic expansion projects, thereby increasing job growth in the U.S. economy.

Finally, the Act's success as a "pull factor" for international capital is complicated by the executive's concurrent use of import tariffs. Quantitatively, these tariffs are projected to offset approximately 1.4% of the economic benefits brought by the OBBB's tax cuts. From a legal perspective, the permanent 100% bonus depreciation for short-lived assets under I.R.C. § 168(k) acts as a powerful incentive for MNEs to build large-scale manufacturing facilities within the United States.<sup>46</sup> However, the regressive nature of the tariffs, which disproportionately burden the bottom 60% of earners, creates a contradictory policy environment. This tension between statutory permanence (OBBB) and discretionary executive trade policy (tariffs) remains the primary source of legal uncertainty for global investors in 2025.<sup>47</sup>

#### *B. Protecting Financial Flows: The Debt Subsidy (Sec. 163(j))*

The OBBB reiterates in its international tax provisions in section 163(j), confirming that permanent National Corporate Top-Up Income Tax ("NCTI") or Base Erosion and Anti-Abuse Tax ("BEAT") falls under the Organization for Economic Cooperation and Development ("OECD") anti-base erosion and territorial taxation frameworks, thereby establishing a formal statutory nexus granting it legal status for international recognition.<sup>48</sup> This codification serves as a de facto recognition of residence-based sovereignty, ensuring that income is subject to a minimum global floor. The adoption of NCTI ensures that Multinational Enterprises (MNEs) maintain a minimum effective tax rate, typically aligned with the OECD Pillar Two standard, within the U.S. jurisdiction.<sup>49</sup> This mechanism serves as a fiscal floor, neutralizing downward pressure on effective tax rates arising from domestic statutory incentives, such as R&D super-deductions or energy-related tax credits, that would otherwise reduce an MNE's tax liability below the internationally recognized 15% threshold.<sup>50</sup> The BEAT regime introduced by the TCJA principally targets large multinational corporations and functions as a unilateral anti-avoidance rule aimed at limiting income

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<sup>46</sup> See York & Durante, *supra* note 28.

<sup>47</sup> *Id.*

<sup>48</sup> Mengden, *International Tax Competitiveness Index 2025*, *supra* note 5.

<sup>49</sup> Alex Mengden, *Pillar Two Implementation in Europe, 2025*, TAX FOUND. (Oct. 30, 2025), <https://taxfoundation.org/data/all/eu/pillar-two-implementation-europe/> [<https://perma.cc/F57S-4YZP>].

<sup>50</sup> Ziyue He, *Capital Market Reactions to the Global Minimum Tax: Evidence from China* (2023) (unpublished manuscript), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=5342289](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5342289) [<https://perma.cc/C3KF-M7B7>].

shifting through related-party cross-border payments. NCTI has a domestic tax nature for tax coordination, whereas BEAT is a unilateral protection preventing base erosion that leverages the United States' power to define the taxable event independently of international consensus.<sup>51</sup> Under OBBB, NCTI applies the minimum tax rate between 12.6-14% using a blended formula<sup>52</sup> for all foreign income, representing a departure from jurisdictional blending in favor of global efficiency.

The U.S. strategy of attracting capital extends beyond these international tax formulas; it utilizes a dual-track approach that pairs global tax efficiency with domestic regulatory leniency. Just as the NCTI uses a blended formula to capture foreign income, the U.S. leverages statutory flexibility in domestic fiduciary standards to create a de facto subsidy for high-risk investment vehicles. Such standard “allows state and local government plans to discount their future liabilities at the expected rate of return rather than a risk-free rate or corporate bond yields.”<sup>53</sup> From a legal perspective, this represents an expansive interpretation of the principle of prudence in fiduciary regulation.<sup>54</sup> The U.S. public pension funds indirectly subsidize venture capital by applying discount rates higher than risk-adjusted rates, thereby incentivizing high-risk investments such as private equity. The debt subsidy or financial flows drive the U.S. public sector to take risks and inject capital into high-growth companies, effectively creating a statutory preference for high-risk capital over traditional, conservative assets.<sup>55</sup>

The provision of tax preferences for private retirement savings mechanisms is a common government strategy designed to foster long-term capital accumulation for retirees. These mechanisms characteristically grant a tax exclusion to the initial principal investment or the accrued investment returns.<sup>56</sup> The U.S. model establishes the theoretical principle of tax neutrality for savings: avoiding a double disincentive to both savings and labor income.<sup>57</sup> This is achieved by providing a fixed statutory baseline that prevents the retroactive liabilities common in European windfall tax regimes. The old limits in 2022-2024 limit the addition back of depreciation and amortization, leading to a lower deduction ceiling, pushing companies

51 Mengden, *International Tax Competitiveness Index 2025*, *supra* note 5.

52 Mengden, *Pillar Two Implementation in Europe, 2025*, *supra* note 49.

53 Benahmed, *supra* note 36, at 5-6.

54 *Id.* at 4.

55 *Id.* at 6 (“Returns on private equity investments (including venture capital) are generally higher than those on other asset classes . . . Public sector . . . pension plans therefore have an incentive to invest more in private equity, as it can help them to boost the average return”).

56 Alex Mengden, *Savings and Investment: The Tax Treatment of Stock and Retirement Accounts in OECD and EU Countries*, TAX FOUND. (Sep. 2025), <https://taxfoundation.org/wp-content/uploads/2025/09/FF866fv.pdf> [<https://perma.cc/L6G5-LSYV>] (In contrast with the European model with the integrated double taxation on dividends at corporate and shareholder levels.).

57 *Id.* at 1.

towards equity or lower leverage or loans to raise capital.<sup>58</sup> The new limit rules on company interest allow a deduction of up to 30% of adjusted income.<sup>59</sup> This provides a theoretical basis for justifying the need to formalize Qualified Business Income (“QBI”) under OBBB and to simplify the capital gains tax system.<sup>60</sup>

Beyond direct tax credits, the OBBB uses statutory flexibility in interpreting fiduciary standards to indirectly support the private equity and venture capital markets. By allowing public pension funds to discount future liabilities at an expected rate of return rather than a risk-free rate, the U.S. has created a legalized risk-taking environment that acts as a de facto subsidy for high-growth sectors.<sup>61</sup> This contrasts with the punitive and retroactive nature of European windfall taxes, reinforcing the U.S. as a jurisdiction committed to institutional permanence and the protection of accrued capital returns.

### III. FRANCE’S DEFENSE: NATIONAL SOVEREIGNTY WITHIN THE CONSTRAINTS OF EU LAW

#### A. French Investment Tax Policy Baseline

LOI n° 2025-127 du 14 Février 2025 de finances pour 2025 (1)<sup>62</sup> serves as the primary legislative instrument for establishing corporate tax rates and anti-avoidance measures in France. This Act underwent rigorous judicial scrutiny by the French Constitutional Council (*Conseil Constitutionnel*), which affirmed its compliance with the principle of legality on February 13, 2025. The Act’s focus on the structural and effective balance of the central public administration suggests that French fiscal policy is guided by

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58 Sloan G. Speck, *Structural Tax Reform and the Next REIT Revolution*, 27 U. PA. J. BUS. L. 988, 1034 (2025) (“From 2018 through 2021, the taxable income base for § 163(j) was defined to exclude depreciation and amortization. In effect, this regime limited companies’ interest expense to 30% of earnings before interest, taxes, depreciation, and amortization (EBITDA). In 2022, however, the taxable income base changed to include depreciation and amortization, leaving the base as, essentially, earnings before interest and taxes (EBIT).”); see also Tax Relief for American Families and Workers Act of 2024, H.R. 7024, 118th Cong. § 202 (2024) (retroactively extending § 163(j)’s EBITDA base through 2025. This bill passed the House but failed a cloture vote in the Senate).

59 I.R.C. § 163(j) (“The amount allowed as a deduction under this chapter for any taxable year for business interest shall not exceed the sum of . . . (B) 30 percent of the adjusted taxable income of such taxpayer for such taxable year.”).

60 Mengden, *Savings and Investment: The Tax Treatment of Stock and Retirement Accounts in OECD and EU Countries*, supra note 56 (“The portion of after-tax earnings that workers set aside for savings and future consumption is often taxed twice, creating a bias against saving. Ideally, workers should only be taxed on their income once, either when earned or when withdrawn for spending, to avoid compounding disincentives to both labor earnings and savings.”).

61 Benahmed, supra note 36, at 5-6 (“This standard allows state and local government plans to discount their future liabilities at the expected rate of return rather than a risk-free rate or corporate bond yields.”).

62 LOI n° 2025-127 du 14 février 2025 de finances pour 2025 (1) [Law No. 2025-127 of February 14, 2025 regarding the Finance Act for 2025 (1)], JOURNAL OFFICIEL DE LA REPUBLIQUE FRANÇAISE [J.O.] [OFFICIAL JOURNAL OF THE FRENCH REPUBLIC], Feb. 15, 2025, No. 0039.

constitutional debt management<sup>63</sup> rather than by the aggressive capital pull-factors seen in the U.S. OBBB. The inclusion of industrial and digital sovereignty<sup>64</sup> in the signing minister's title confirms that French tax policy is now a legal defense of national autonomy against external competition. France maintains a strict jurisdictional distinction between limited companies, taxed as separate legal entities, and partnerships, which function as pass-through entities under the transparency principle.<sup>65</sup> This rigid, codified domestic legal system ensures high administrability and predictability, but it intentionally restricts the liberal flow of high-risk capital favored by the U.S. market.<sup>66</sup>

The Directorate General of Public Finances (“DGFIP”) is the main authority, and the French Tax Code<sup>67</sup> is the primary source of legislation. As a continental law country strictly adhering to the constitutional principle of legality in taxation, French tax policy is rooted in a rigid codified domestic legal system. Such rigidity allows predictability and administrability in tax policy, but it also prevents the liberal flows of capital markets. The DGFIP adopts the 15% minimum global tax rate and the statutory transposition of the Global Anti-Base Erosion (GLOBE) rules of Pillar 2.<sup>68</sup> France practices compliant protectionism. It offers a reduced 10% CIT for net income from the licensing or sale of qualifying Intellectual Property (IP)<sup>69</sup>, functioning as a specialized IP box regime. This is France's primary tool for attracting High-New Tech Enterprise (HNTE) in the face

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63 *Id.* at article liminaire [Preliminary Article] (The forecasts for the structural and actual balance of the central government . . . administration . . . for the year 2025”).

64 *Id.* at 226-27. Soutien des ministères sociaux [Support from the Social Ministries] (naming Amélie de Montchalin, Minister to the Minister of Economy, Finance, and Industrial and Digital Sovereignty, in charge of Public Accounts).

65 Vincent Lazimi, Jacques-Henry de Bourmont & François-Xavier Simeoni, *Corporate Tax 2025 – France: Law and Practice*, CHAMBERS & PARTNERS § 1.1 (Mar. 18, 2025), <https://practiceguides.chambers.com/practice-guides/corporate-tax-2025/france> [<https://perma.cc/H6DY-DWE8>] (“Limited companies are subject to corporate income tax (CIT) as separate legal entities, while partnerships are pass-through entities (the tax is calculated at the level of the company, but is effectively paid by the shareholders).”).

66 *Id.* at §§ 2.2, 9.10 (“ Subject to certain conditions, net income from licenses and sales of patents, software and similar intangible assets is subject to a preferential CIT rate of 10% instead of the standard rate of 25% . . . Taxation of profits from IP at the preferential corporate tax rate of 10% requires French companies to be very rigorous and to prepare specific documentation.”).

67 CODE GENERAL DES IMPOTS (General Tax Code) (Fr.).

68 DIRECTORATE GEN. OF PUB. FIN. [DGFIP], COMPLEMENTARY TAX (GLOBAL MINIMUM TAX AT 15% - GLOBE RULES – PILLAR 2), OFF. BULL. OF PUB. FIN.-TAXES [BOFIP] (Dec. 9, 2025) (Fr.).

69 Lazimi, Bourmont & Simeoni, *supra* note 65, § 2.2 (“France has also implemented an optional intellectual property (IP) box regime (patent box), which is a preferential tax regime on income from the exploitation of IP assets.”).

of OBBB's permanent R&D expense.<sup>70</sup> The French Patent Box<sup>71</sup> is an additional critical subject to the OECD Approach, which mandates a strict jurisdictional connection. It requires R&D expenditures to be substantially incurred in France to qualify for the 10% rate.<sup>72</sup> Unlike the OBBB, which may take unilateral actions that challenge international norms, France's incentives are strictly designed to be compliant with OECD treaties. This limits France's ability to be as aggressive as the U.S. because its statutory autonomy is restricted by multilateral rules.

The OECD 2025 Economic Outlook predicts that France's GDP growth will slow to 0.8% in 2025, then recover slightly to 1% in 2026 and 2027.<sup>73</sup> When the economy grows less than 1%, it is highly susceptible to capital-driven jurisdictional disputes. The OBBB's aggressive tax incentives would likely pull investment away from the French economy, which lacks the growth momentum to keep it. The OECD explicitly notes that France maintains a product market regulation that is generally conducive to competition, particularly in digital markets.<sup>74</sup> France's Digital Services Tax (DST) has been upheld by the French Constitutional Council, which ruled in September 2025 that the levy is compatible with the principle of equality.<sup>75</sup> This implies that the French regulatory framework is designed to ensure a defensive, stable economic environment.<sup>76</sup> However, in the face of the OBBB, which provides structural subsidies to U.S. tech giants, France views the DST as a sovereign tax defense to protect its competitive digital market from asymmetrical American influence.<sup>77</sup> France puts itself in the crosshairs of the European pro-defensive attitude against the U.S. tech giants and a declining competitiveness in the digital market, which urges for finance flows. France faces a difficult choice: either amend its domestic legislative values or maintain the status quo.

The temporary CIT surcharge targeting large companies postpones the abolition of CVAE (a local business tax) to 2030, when it was originally

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<sup>70</sup> *Id.* ("French companies may benefit from research tax credits, innovative tax credits and tax credits for expenses invoiced by research and knowledge dissemination organisations."). By tying the benefit to the OECD nexus approach, France creates a codified tool that acts as its primary defensive and offensive measure to retain high-tech value within its borders, directly countering the capital-attraction power of the U.S. OBBB's permanent R&D deductions.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> OECD (2025), *OECD Economic Outlook, Vol. 2025/ 2: Resilient Growth but with Increasing Fragilities*, OECD Publ'g, Paris, <https://doi.org/10.1787/9f653ca1-en> [<https://perma.cc/K2LR-3SBY>].

<sup>74</sup> *Id.*

<sup>75</sup> Law No. 2025-127, *supra* note 62.

<sup>76</sup> Cristina Enache, *Digital Services Taxes in Europe, 2025*, TAX FOUND. (May 6, 2025), <https://taxfoundation.org/data/all/eu/digital-services-taxes-europe/> [<https://perma.cc/7BC3-NQUA>] ("France's tax base is much broader, including revenues from the provision of a digital interface, targeted advertising, and the transmission of data collected about users for advertising purposes.").

<sup>77</sup> See *OECD Economic Outlook, supra* note 73, at 164 ("France maintains generally competition-friendly product market regulations, especially in digital markets, supporting the business environment.").

supposed to sunset in 2027.<sup>78</sup> Unlike the statutory permanence offered by the OBBB, France, facing a fiscal crisis, is moving towards provisional tax measures to address rising budget deficits. France is introducing a new tax on share buybacks for companies with an annual turnover exceeding EUR 1 billion,<sup>79</sup> adding an additional layer of taxation on capital reductions. Share buybacks are the primary way for MNEs to return value to shareholders.<sup>80</sup> By taxing share buybacks, France effectively makes it more expensive for large companies to manage their equity, discouraging financing and liquidity. MNEs may fear that these transitory surcharges will be extended indefinitely, thus making France a less attractive long-term destination for capital.<sup>81</sup>

The Tax Foundation reports striking average “integrated tax rate” of 40.86% for dividends and 37.37% for capital gains, with average top tax rates of 18.19% for capital gains and 22.87% for dividends across OECD and EU countries.<sup>82</sup> By maintaining an integrated rate near 40%, France creates strong legal exit pressure on capital. When the U.S. passes the OBBB, this 40% burden becomes a “comparative penalty” for staying in Europe.<sup>83</sup>

Unlike the U.S. or China, France operates under the strict EU State Aid prohibition framework, which limits its ability to deploy selective tax incentives to counter the OBBB. As noted by López and Navarro,<sup>84</sup> the legal classification of even safe harbor regimes as selective creates an internal legal barrier for France. This necessitates that French incentives, such as the Patent Box, remain strictly aligned with the OECD Nexus rules, defining France’s strategy as Multilateral Regulatory Defense rather than aggressive Unilateral Subsidy.<sup>85</sup> Any new French incentives must be non-selective and proportional to avoid triggering formal investigations.<sup>86</sup>

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78 Sacha Boksenbaum, *BDO Corporate Tax News: France Corporate Tax Measures in FY25 Draft Finance Bill*, BDO GLOB. (Oct. 29, 2024), <https://www.bdo.global/en-gb/insights/tax/world-wide-tax/france-corporate-tax-measures-in-fy25-draft-finance-bill> [<https://perma.cc/2VJ5-HN87>].

79 *Id.*

80 *Id.* (“The share buyback tax would be equal to 8% of the amount of the reduction in share capital”).

81 *Id.* (“The tax would not be deductible from the taxable result.”).

82 Mengden, *Savings and Investment: The Tax Treatment of Stock and Retirement Accounts in OECD and EU Countries*, *supra* note 56.

83 *Id.* (“[P]roducing an average integrated tax rate on distributed corporate income of 40.86 percent for dividends and 37.37 percent for capital gains in OECD and EU countries.”).

84 Hugo López & Aitor Navarro, *EU State Aid and the Tax Allocation of Multinationals’ Profits*, 61 COMMON MKT. L. REV. 1255, 1281 (2024).

85 *Id.*

86 *See id.* (EU prohibition of State aid has become a tool to control the allocation of profits of multinational enterprises); *id.* at 1255 (“This contribution examines the impact of the EU prohibition of State aid on the tax allocation of multinationals’ profits.”); *id.* at 1287 (“Derogations from the described reference framework were assessed from a triple perspective. First, limitations on the scope of transfer pricing regulations were reviewed through the lens of selectivity.”).

*B. Challenge to EU Sovereignty: The Pillar 2 and NCTI Conflict*

France's protectionism is rooted in Anti-Abuse logic. Article 57 of the French General Tax Code ("CGI")<sup>87</sup> allows the tax authority to repair or adjust the taxable income of French companies that have indirectly transferred profits to foreign affiliates through a dependency relationship. This shield in France's regulatory defense does not require new legislation because it already provides a robust mechanism to claw back profits shifted to U.S. parent companies. While the U.S. uses the OBBB to attract capital, France tightens its audit procedures to ensure that MNEs already operating in France cannot easily shift their profits elsewhere.

The Official Tax Notice (BOFiP)<sup>88</sup> from the Directorate General of Public Finance (DGFIP) refers to a 2024 finance law that strengthened transfer pricing audits for MNEs<sup>89</sup>, underscoring France's intent to modernize its defenses. The BOFiP confirms that profits transferred abroad are treated as indirect distributions and are subject to withholding tax (WHT) under CGI Article 119 bis, unless an international tax treaty provides otherwise.<sup>90</sup> The French WHT targets the beneficiary of the shifted profit, functioning as a secondary legal barrier to the capital velocity which the OBBB encourages. French CGI looks at both the legal dependency of share ownership and the factual dependency of economic control or influence.<sup>91</sup> It demonstrates the granularity of French regulation, being composed of many individual pieces or elements. French law can target U.S. MNEs that may not own a majority of a French firm but still control its

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87 DIRECTORATE GEN. OF PUB. FIN. [DGFIP], BIC – BASE D'IMPOSITION – TRANSFERT INDIRECT DE BENEFICES A L'ETRANGER ENTRE ENTREPRISES DEPENDANTES – CONTROLE ET PROCEDURE DE REMISE EN CAUSE DES PRIX DE TRANSFERT [BIC – TAXABLE BASE – INDIRECT TRANSFER OF PROFITS ABROAD BETWEEN DEPENDENT UNDERTAKING - CONTROL AND TRANSFER PRICING CHALLENGE PROCEDURE], OFF. BULL. OF PUB. FIN.-TAXES [BOFiP] (Dec. 10, 2025) (Fr.) ("Article 57 of the French General Tax Code (CGI) allows for the rectification of understated profits of French companies which, due to dependent relationships with foreign companies, have indirectly transferred profits out of France.").

88 In French tax law, the Bulletin Officiel des Finances Publiques — Impôts (BOFiP-Impôts) serves as the centralized digital repository for the administrative doctrine issued by the Directorate General of Public Finance (DGFIP). Its primary function is to provide a standardized, legally binding interpretation of the General Tax Code (CGI), ensuring that taxpayers and multinational enterprises (MNEs) have a clear understanding of how statutory rules, such as transfer pricing audits or the implementation of OECD Pillar Two, will be applied in practice. By formalizing these guidelines, the BOFiP establishes a framework of legal certainty where the administration is bound by its own published instructions, effectively preventing retroactive liabilities for those who comply with the stated doctrine. Consequently, while the CGI remains the primary legislative source, the BOFiP functions as the essential operational manual that defines the technical execution of fiscal policy and provides a defensive shield for taxpayers against inconsistent administrative shifts. *See* DIRECTORATE GEN. OF PUB. FIN. [DGFIP], FRENCH TAX LAW 1, 1-2 (2024).

89 BIC – TAXABLE BASE – INDIRECT TRANSFER OF PROFITS ABROAD BETWEEN DEPENDENT UNDERTAKING – CONTROL AND TRANSFER PRICING CHALLENGE PROCEDURE, *supra* note 87.

90 *Id.* ("Insofar as the company receiving the transferred income or the benefits granted has its registered office outside France, the indirect distribution is subject to withholding tax at the rate provided for in 2 of Article 119 bis of the French Tax Code, subject to international tax treaties").

91 *Id.* (Deals with issues like "Legal dependency" and "De facto dependency").

economic decisions. It is a highly effective tool for regulatory protectionism as it allows France to challenge complex corporate structures that the OBBB might otherwise shield.

In *Cahiers de Droit Fiscal International*, Ivan Lazarov argues that the EU’s internal market allows the free movement of passive income, such as dividends and royalties, between member states, but lacks a coordinated approach to outbound payments to non-EU countries.<sup>92</sup> The EU establishes a structural vulnerability, and France is forced to take unilateral or aggressive stances because the EU as a whole is open internally but uncoordinated externally. It becomes easy for MNEs—especially U.S. giants empowered by the OBBB—to move profits out of France with minimal tax friction. Lazarov explains that the current legal framework creates a complex environment in which MNEs can exploit differences in tax laws across countries to minimize their WHT obligations.<sup>93</sup> France’s tightening of transfer pricing and WHT rules is a direct reaction to this exploitation. The complexity of the EU system is a double-edged sword: it enables tax avoidance, which in turn forces France to implement even more rigid and complex defensive regulations.<sup>94</sup> A major finding in the paper is that lower WHT rates correlate with higher FDI-to-GDP ratios, indicating that these flows are often “phantom investments,”<sup>95</sup> financial movements driven by tax optimization rather than real economic activity. France and the EU support Pillar 2 specifically to neutralize these phantom investments by ensuring a 15% minimum tax regardless of where the capital is moved. While the U.S. views this as efficient, the EU views much of this movement as phantom activity that erodes the national tax base, justifying France’s defensive posture.<sup>96</sup>

In *Tax Notes International*, Daniele Majorana argues that the G7 statement regarding Pillar 2 is not just a policy update; it is a “strategic moment” that defines Europe’s new role in global tax governance.<sup>97</sup> The EU is no longer just a “rule-taker” from the U.S.; instead, by pushing Pillar 2, it is attempting to become a rule-maker.<sup>98</sup> This sets the stage for the direct conflict with the U.S. OBBB, as both powers try to define the future of international tax. The author describes the GLOBE (Global Anti-Base

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92 Ivan Lazarov, *Improper Use of Tax Treaties and Source Taxation: Policy, Practice and Beyond*, 109 INT’L FISCAL ASS’N [CAHIERS DE DROIT FISCAL INT’L] 91, 124 (2025).

93 *Id.*

94 BIC – TAXABLE BASE – INDIRECT TRANSFER OF PROFITS ABROAD BETWEEN DEPENDENT UNDERTAKING – CONTROL AND TRANSFER PRICING CHALLENGE PROCEDURE, *supra* note 87.

95 Lazarov, *supra* note 92, at 98.

96 *Id.*

97 Daniele Majorana, *The G7 Statement on Pillar 2 Marks Europe’s Strategic Tax Moment*, 119 TAX NOTES INT’L 923, 925 (Aug. 12, 2025) [<https://perma.cc/XSN3-SYQS>].

98 *Id.*

Erosion) directive as a “milestone.”<sup>99</sup> More importantly, he views it as a test of the EU’s ability to act as a central regulatory authority in a field (taxation) that has traditionally been the exclusive domain of national sovereignty. France and the EU are using Pillar 2 to centralize their power. By imposing a 15% minimum tax on MNEs, the EU is exercising regulatory sovereignty to counter the economic sovereignty projected by the U.S. OBBB.<sup>100</sup>

Majorana identifies a dual role for the GLOBE rules: they are both constraints on tax avoidance and catalysts for funding the EU’s geo-economic strategy.<sup>101</sup> For France and the EU, tax policy permits strategic autonomy. If the OBBB tries to drain capital from Europe, Pillar 2 is the mechanism the EU uses to ensure it continues to capture sufficient revenue to fund its own industrial policies and counter-subsidies. France and the EU fear the U.S.’s unilateral protectionist move poses a powerful threat to European tax governance; thus, they force the U.S. to negotiate via the G7 statement<sup>102</sup> to create a side-by-side solution.<sup>103</sup> This de facto recognition that the U.S. can no longer ignore EU tax regulations creates a “New Cold War” of tax diplomacy.

The implementation of the Pillar 2 model rules, originally developed by the OECD and G20, within EU directives raises serious questions regarding the legality principle, which is the constitutional requirement that taxes must be clearly defined by law.<sup>104</sup> The EU member states fall between following the evolving OECD administrative guidance and staying strictly within the limits of the EU Pillar 2 Directive (P2D).<sup>105</sup> The legal uncertainty and the fragmentation of authority reveal an internal inconsistency of France’s multi-layered fiscal structure. If the OECD updates its rules, while the EU Directive remains unchanged, French tax authorities will be faced a legal dilemma: whether to follow the international treaty or the European Directive. This confusion contrasts sharply with the single-layered clarity of the OBBB. Sigrid Hemels, in her paper, points out that both national

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<sup>99</sup> *Id.* at 925.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.* at 923.

<sup>103</sup> See *Press Release: G7 Statement on Global Minimum Tax*, U.S. DEP’T (June 28, 2025), <https://home.treasury.gov/news/press-releases/sb0181> [<https://perma.cc/79BZ-HD8M>] (G7 agreement allows the U.S. and the EU to operate their tax systems independently without triggering immediate retaliatory measures. The G7 agreed to exempt US-parented groups from the Income Inclusion Rule (IRR) and the Undertaxed Profits Rule (UTPR). In exchange, the U.S. removed its proposed Section 899 retaliatory taxes—originally a “tax bomb” designed to strike countries implementing Pillar 2 against American firms. The US Net CFC Tested Income (NCTI) uses “global blending” (allowing low-tax and high-tax jurisdictions to offset), whereas the EU’s Pillar 2 requires “jurisdictional blending” (taxing each country separately).).

<sup>104</sup> Sigrid Hemels, *National Constitutions and EU Primary Law Limits in the Case of the Implementation of the Pillar 2 Directive: The Legality Principle and Pillar 2 1* (19th GREIT Conf. Working Paper 2025), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=5214695](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5214695) [<https://perma.cc/4MBN-9HJE>].

<sup>105</sup> *Id.*

parliaments and governments were sidelined in the rule-changing process, leading to a backlash where delegated acts, which would have given the EU Commission more power, were ultimately omitted from the DAC9, an Administrative Cooperation framework.<sup>106</sup> France and other EU nations are still fiercely protecting their tax sovereignty. This internal struggle makes it harder for the EU to present a unified front against the U.S. OBBB. The omission of delegated acts shows that the EU's regulatory superpower status is still contested by its member states, a contest that has persisted since the union's formation.<sup>107</sup>

Another issue raised is the French or European hostility towards the use of AI in tax administration. This fundamentally changes how audits are conducted, creating an urgent need for new legal measures to ensure these systems are “legitimate” under European law.<sup>108</sup> The OBBB focuses on capital efficiency, while the EU focuses on Algorithmic Sovereignty.<sup>109</sup> The Data Protection Law (GDPR) heavily influences French tax law, binding tax authorities to strict privacy and transparency obligations. The European approach, hence, leads France to impose a non-tariff barrier on U.S. tech giants, who face much greater scrutiny of their data and IP flows than they do in the U.S. The two-rule framework extends GDPR protections against automated decision-making to tax proceedings. It highlights the EU tax environment as it continues to evolve, seeking to balance AI efficiency with legal protections. The EU prohibition on State aid has evolved into a strategic tool for controlling how MNEs allocate their profits across jurisdictions. It can be argued that France and the EU are not simply defending their tax base, but using the State Aid framework as a legal instrument to ensure that profits remain within the EU's borders.<sup>110</sup> Yet, France is legally barred by the EU from offering similar selective deals to counter the U.S., creating an asymmetric competitive battlefield. Under EU law, if a country gives a specific tax advantage to one MNE that is not available to everyone, it can be ruled an illegal subsidy. The principle of selectivity<sup>111</sup> assesses each exception or derogation from a standard tax framework. In conclusion, MNEs might prefer the OBBB's stable tax environment because of its permanence and fixed legal baseline, in contrast

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<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> Amedeo Rizzo & Giorgio Hassan, *Addressing the Use of AI by EU Tax Authorities: Towards a Common Framework of Taxpayer Protection*, 65 EUR. TAX'N J. 1 (2024), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=5259173](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5259173) [<https://perma.cc/JQ6V-L2S3>]

<sup>109</sup> *Id.*

<sup>110</sup> López & Navarro, *supra* note 84.

<sup>111</sup> *Id.* at 1287 (“Derogations from the described reference framework were assessed from a triple perspective. First, limitations on the scope of transfer pricing regulations were reviewed through the lens of selectivity.”).

to the EU's shifting landscape of automated decision-making protections and the need for consistent human intervention.

*C. OBBB on French Investment Strategy*

The OECD reports state explicitly that uncertainty (l'incertitude), both domestic and international, weighed heavily on 2025 growth, leading to a postponement of consumption and investment decisions.<sup>112</sup> The French capital may be frozen or delayed due to legal and economic uncertainty. The OBBB provides the opposite—permanence and predictability. French MNEs may be more likely to move their postponed investments to the U.S. because the OBBB removes the legislative TCJA sunset risks that still exist in the Eurozone.

According to the Banque de France 2024 annual report in Table 1<sup>113</sup>, direct investments represent long-term physical investments like factories, subsidiaries, and localized infrastructure. Portfolio investment involves more liquid, short-term financial assets like stocks and bonds. The long-term capital shows a decline from 2023-2024 from 79.1 to 75.8, which may be caused by MNEs redirecting their long-term industrial capital back to the U.S. to take advantage of the OBBB; the financial mobility presented by portfolio investment is at risk of fleeing to the U.S. capital markets as the OBBB enhances the after-tax returns for equity financing in the U.S. compared to the debt-heavy European model. The non-financial factors<sup>114</sup> quantify the scale of international investment in France's real economy. This quantitative baseline of EUR 414.3 billion for the French manufacturing and service industries is the economy size that the OBBB is competing against. To the extent that the OBBB pressures French competitiveness, it is possible that, if the OBBB successfully pressures the competitiveness of the French real economy, these asset values may diminish as firms shift production chains to the U.S. to avoid being taxed out of the global market.

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<sup>112</sup> *OECD Economic Outlook*, *supra* note 73, at 38.

<sup>113</sup> *The French Balance of Payments and International Investment Position Annual Report 2024*, *supra* note 22.

<sup>114</sup> *Id.*

	2023	2024
<b>Employee's Compensation</b>	<b>31.3</b>	<b>33.5</b>
<b>Investment Income</b>	<b>26.8</b>	<b>15.6</b>
<b>Direct Investment</b>	<b>79.1</b>	<b>75.8</b>
<b>Portfolio Investment</b>	<b>-35.0</b>	<b>-39.3</b>
<b>Other Investment</b>	<b>-20.0</b>	<b>-23.6</b>
<b>Reserve Asset</b>	<b>2.6</b>	<b>2.7</b>
<b>Other Primary Income</b>	<b>2.0</b>	<b>5.8</b>
<b>Total</b>	<b>60.0</b>	<b>54.9</b>

Table 1: Primary Income Balance (€ in billions)<sup>115</sup>

Table 1 details the investment positions of various sectors at the end of the year from 2022 to 2024, measured in billions of euros. It tracks both assets and liabilities across the financial and non-financial sectors, distinguishing between holdings in Euro and foreign currencies. Over the three-year period, total assets grew from €462.5 billion to €541.3 billion, while total liabilities increased from €225.1 billion to €272.7 billion. This resulted in a steady increase in the overall net position, which reached €268.5 billion by the end of 2024. Notably, the non-financial sector – comprising corporations, households, and non-profit institutions – accounts for the largest share of these stocks, with total assets in that sector alone reaching €414.3 billion in 2024. Total assets grew consistently, with a notable jump in Euro-denominated assets from €392.8 billion in 2023 to €443.9 billion in 2024. The non-financial sector holds significantly more assets (€414.3 billion) than the financial sector (€127.0 billion) as of 2024. While the net position in Euro grew significantly by 2024, the net position in foreign currencies dropped sharply from €26.2 billion in 2023 to €6.0 billion in 2024.

France suffers from a structural flaw, as do most European countries: double taxation<sup>116</sup> of corporate income at the company level to pay CIT and at the shareholder level to pay dividend tax or capital gains tax. This high level of double taxation makes the system more burdensome than OBBB, hindering capital accumulation for small or medium-sized enterprises (MSMEs) and partnerships. Due to high secondary taxes on dividends or equity returns in Europe, companies are more inclined to finance through debt because interest expenses are usually tax-deductible. The OBBB attempts to optimize capital structure by restricting interest deductions on

<sup>115</sup> *Id.* at 12.

<sup>116</sup> Cristina Enache, *Integrated Tax Rates on Corporate Income in Europe, 2025*, TAX FOUND. (Nov. 18, 2025), <https://taxfoundation.org/data/all/eu/integrated-tax-rates-corporate-income-europe/> [<https://perma.cc/W7FA-9N2E>].

debt (Sec. 163(j)) and encouraging equity investment. The French debt-biased mechanism increases financial leverage risk and reduces companies' resilience during economic recessions, as shown by the OECD's prediction of low GDP growth in France in 2025. France's 36.13%<sup>117</sup> comprehensive tax rate has become a "push force" for capital outflows. It demonstrates that France faces a significant cost disadvantage when competing with the United States for investment from global multinational enterprises (MNEs).

The windfall taxes establish a certainty gap<sup>118</sup> and a hostile environment for MNEs. These taxes are temporary and tied to specific crises. Countries like Spain, Slovakia, and the Czech Republic have repeatedly extended windfall taxes. In Romania's case, the tax on banks was even made permanent.<sup>119</sup> The MNEs located in France may fear that "temporary" defensive measures will become indefinite liabilities. Research by the European Parliament indicates that windfall taxes have historically hindered investment.<sup>120</sup> Specific taxes in Spain and the UK directly threatened domestic renewable energy investments. European countries prefer to use punitive, retroactive taxes that discourage capital commitment, being counterproductive to its own industrial growth. Paradoxically, Europe, in an attempt to address fiscal pressures, taxes the very green-energy industries it seeks to lead, creating a strategic opening for the U.S. to attract those displaced technology firms.<sup>121</sup> Under the necessity of European legislative unity and cooperation, France has to engage in such protectionism with taxes that distort the market by penalizing domestic production and "punitively targeting"<sup>122</sup> specific industries without a sound, stable tax base. This internal flaw lacks the economic logic of the OBBB. By penalizing their own producers, they are inadvertently aiding the U.S. goal of re-shoring manufacturing and capital.

The FY25 Draft Finance Bill introduces an 8% tax on share buybacks (based on the amount of capital reduction), and crucially, this tax is non-deductible from taxable income.<sup>123</sup> This is a key example of France's fiscal defense. By taxing buybacks at 8%, France is attempting to restrict capital outflows to shareholders (especially foreign ones). This directly clashes with the U.S. OBBB, which encourages capital market activity. The "non-deductibility" makes it a punitive measure, signaling a hostile environment for the flexible capital management that U.S. MNEs prefer. KPMG notes that the 2026 Finance Bill is subject to parliamentary scrutiny and is likely

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117 *Id.*

118 Cristina Enache, *Windfall Profits Taxes in Europe, 2025*, TAX FOUND. (Sep. 19, 2025), <https://taxfoundation.org/data/all/eu/windfall-profits-taxes-europe/> [<https://perma.cc/8QL7-N79C>].

119 *Id.* at 6.

120 *Id.*

121 *Id.*

122 *Id.*

123 Boksenbaum, *supra* note 78.

to undergo several amendments.<sup>124</sup> One of the OBBB's greatest strengths is its "permanence." In contrast, French tax law is portrayed as a "work in progress," with constant amendments. For investors, this uncertainty is a "risk premium" that makes France less attractive compared to the stable, permanent tax baseline established by the U.S. OBBB. DGFIP mandates that every entity within the scope of the 15% global minimum tax must file a complex information return (Form 2259-SD).<sup>125</sup> France's implementation of Pillar 2 brings administrative reporting duties. This highlights an asymmetrical advantage held by U.S. firms from the OBBB, as they may be exempt from these specific EU mechanisms under the G7 side-by-side solution. EU rules regarding cross-border transactions, related undertakings, and documentation duties are strictly reviewed for selective advantages.<sup>126</sup> France cannot simplify its procedures or offer "documentation exemptions" to attract foreign direct investment (FDI) because doing so would violate EU State Aid rules. Consequently, U.S. MNEs face a much higher "Compliance Burden"<sup>127</sup> in France. This reinforces the thesis that France's defense is constrained by its legal framework, whereas the OBBB allows the U.S. to pursue unilateral aggression in attracting capital.

The OECD report states that "mitigating uncertainty will improve the growth outlook for 2026 and 2027."<sup>128</sup> France's investment recovery is highly dependent on "mitigating uncertainty," while the core strategy of the U.S. OBBB system is to permanentize tax incentives (such as R&D expense and capital depreciation), thus eliminating the risk of policy fluctuations for investors at the institutional level in advance. In contrast, France remains in a passive state of "waiting for uncertainty to dissipate,"<sup>129</sup> giving the U.S. a time advantage in attracting long-term capital. This emphasizes that accelerating the adoption of new technologies, including artificial intelligence, is crucial for unlocking productivity gains.<sup>130</sup> Given the French government's strategic goal of accelerating the adoption of new technologies such as AI, the permanent R&D subsidies provided by the U.S. OBBB are not merely economic competition, but also a form of technological interference. If the U.S. tax environment provides greater certainty for AI R&D, French domestic innovation resources (especially high-value talent and capital) may flow to the U.S., thereby weakening

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124 *France: Tax Measures In 2026 Finance Bill Include Amendments To Pillar Two Rules*, KPMG TAXNEWSFLASH (Oct. 21, 2025), <https://kpmg.com/us/en/taxnewsflash/news/2025/10/france-tax-measures-2026-finance-bill.html> [<https://perma.cc/F9Z3-35PG>].

125 COMPLEMENTARY TAX, *supra* note 68.

126 López & Navarro, *supra* note 84, at 1287-88.

127 *Id.* at 1288.

128 *OECD Economic Outlook*, *supra* note 73.

129 *Id.*

130 *Id.*

France's ability to achieve its productivity growth targets. This OECD recommendation calls for France to undertake structural reforms.<sup>131</sup> Under the global competitive pressure from OBBB, if France fails to optimize the allocation of its R&D aid (i.e., shift from a general approach to a targeted approach for high-potential projects), its technological competitiveness will further lag behind that of the United States.

The heavy compliance burden rests upon the principle of human intervention. Given the legal challenges facing AI-driven automated tax audits in the EU, tax authorities may be required to introduce more human review. Increased human intervention will make the tax audit process slower, more subjective, and less predictable. Hence, the degree of human intervention in tax proceedings should be proportional to the discretion involved in the case.<sup>132</sup>

#### IV. CHINA AND THE STRATEGIC COUNTER-SUBSIDY

##### A. China Investment Tax Policy Baseline

The Ministry of Commerce (MOFCOM) and the State Taxation Administration (STA) of China provide the legal and strategic foundation for China's Incentive-Based Defense against the capital-pulling effects of the U.S. OBBB. The joint policy between the Ministry of Finance, the STA, and MOFCOM<sup>133</sup> demonstrates that China's response is not merely a technical tax adjustment but a coordinated national strategy. China signals that tax policy is used as a tool to preserve Foreign Direct Investment (FDI). The announcement clarifies that the new tax credit does not replace the existing tax deferral policy; rather, foreign investors can enjoy both.<sup>134</sup> China is creating a tax shield for foreign investors. By allowing them to defer taxes on distributed profits and then providing a credit upon reinvestment, China effectively lowers the cost of staying in the Chinese

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<sup>131</sup> *Id.* at 79-80 (noting that it is essential to accelerate the adoption of new technologies, including artificial intelligence, to generate productivity gains and that it is also possible to improve innovation performance by reorienting support towards SMEs with high potential).

<sup>132</sup> Rizzo & Hassan, *supra* note 108, at 23.

<sup>133</sup> *Interpretation on the 'Announcement of the State Taxation Administration Regarding the Policy of Tax Credit for Foreign Investors to Directly Invest with Distributed Profits'*, FOREIGN INV. ADMIN. DEP'T 1, (Aug. 1, 2025), [https://www.mofcom.gov.cn/zcjd/tzhz/art/2025/art\\_6096215e19084b369ee605b5fd4df8e7.html](https://www.mofcom.gov.cn/zcjd/tzhz/art/2025/art_6096215e19084b369ee605b5fd4df8e7.html) [<https://perma.cc/V6UH-Q6GN>] (China) (In accordance with the 'Announcement of the Ministry of Finance, State Taxation Administration, and Ministry of Commerce on the Tax Credit Policy for Overseas Investors

Using Distributed Profits' . . . our bureau issued the 'Announcement of the State Taxation Administration on Relevant Matters Concerning the Tax Credit Policy for Direct Investment by Overseas Investors Using Distributed Profits').

<sup>134</sup> *Id.* at 1-2 ("The tax administration announcement does not affect the validity of the deferred tax payment policy, and the relevant documents regarding the deferred tax payment policy remain applicable. The tax credit policy is a temporary tax incentive for reinvestment by overseas investors; [O]verseas investors who enjoy the tax credit policy can still enjoy the deferral tax payment policy.").

market. This directly counters the OBBB's goal of encouraging U.S. MNEs to repatriate profits. The policy is set to run from January 1, 2025, to December 31, 2028, with provisions allowing investors to carry forward remaining credits until they are exhausted.<sup>135</sup> This four-year window is likely specifically designed to overlap with the initial implementation of the OBBB, intended to stabilize the capital base while the global market adjusts to the new U.S. tax reality. The policy notes that investors may calculate their tax credit at a flat 10% rate or at a lower rate under an applicable bilateral tax treaty.<sup>136</sup> By integrating its domestic credit system with international tax treaties, China makes itself more attractive to investors from treaty-partner countries. It may maximize the cash-flow benefit for an investor who already benefits from a lower treaty tax rate. The 10% rate, or a lower rate provided by an applicable bilateral tax treaty, can be seen in the example of the 5% rate for China-Singapore or China-Hong Kong.<sup>137</sup> It ensures that the effective tax burden in China remains competitive even when compared to the OBBB's permanent domestic reductions.

China's Ministry of Commerce publishes an official interpretation to illustrate its model. The document clarifies that the Tax Deferral Policy remains the central mechanism for foreign investors. This policy allows for the "temporary non-collection of corporate income tax" on distributed profits that are reinvested directly into China.<sup>138</sup> By waiving the 10% withholding tax on dividends, the state creates a high cost of exiting capital. In contrast to the OBBB's intent to pull capital back to the U.S., China creates mathematical advantages for capital to stay. Investors are free to choose between 10% credit or a lower treaty rate provided by the bilateral agreement.<sup>139</sup> The freedom of choice neutralizes the OBBB's appeal to investors from key partner regions. Furthermore, China maintains a dual-layered system: a standard rate of 25% and a preferential rate of 15% for High-New Tech Enterprises (HNTE). When combined with the R&D super-

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135 *Id.* at 8 ("The tax and finance announcement stipulates that the tax credit policy will be implemented from January 1, 2025, to December 31, 2028. It also clarifies that overseas investors with a remaining credit balance after December 31, 2028, can continue to enjoy the credit until the balance is zero.").

136 *Id.* at 2 ("When . . . [making reinvestments, overseas investors] the tax credit is calculated under the following two scenarios: First, eligible enterprises may choose to calculate the tax credit based on 10% of the reinvestment amount or a dividend tax rate lower than 10% as stipulated in an applicable tax agreement (or arrangement).").

137 *Id.*

138 *Id.* at 1 ("[I]s the policy of temporarily exempting corporate income tax on direct reinvestment of distributed profits by overseas investors . . . still valid?").

139 *Id.* at 2 ("When . . . [making reinvestments, overseas investors] the tax credit is calculated under the following two scenarios: First, eligible enterprises may choose to calculate the tax credit based on 10% of the reinvestment amount or a dividend tax rate lower than 10% as stipulated in an applicable tax agreement (or arrangement).").

deduction, the “effective rate” drops even further.<sup>140</sup> China uses the 25% standard rate as the baseline with a sharply lower targeted rate of 15% for strategic sectors (industry-led). China’s tax code is an instrument to protect specific high-value supply chains (AI, Semiconductors) from the OBBB. By lowering the tax floor for the software industry, China directly counters the OBBB’s technological-rivalry goals.

Ernst & Young details the landmark enactment of China’s Value-Added Tax (VAT) Law, which passed on December 25, 2024. The official enactment of the VAT Law marks a “new era” of Chinese tax governance.<sup>141</sup> China is moving away from a discretionary, regulation-based system toward a formalized, law-based system. This Rule of Law approach in taxation is necessary for China to project the stability required to compete with the OBBB’s promise of permanent U.S. tax certainty. “The law maintains the current three-tier tax rate system (13%, 9%, and 6%), while introducing significant policy changes and improvements in international alignment.”<sup>142</sup> By keeping its domestic rates stable while modernizing its technical definitions, China’s balance strategy makes its tax system more legible to Western MNEs, a more predictable jurisdiction for foreign capital to counteract the OBBB. The VAT law was passed in late 2024 and takes effect on January 1, 2026. The chronological alignment to the OBBB further emphasizes the rivalry between China and the U.S. for their technological and economic sovereignty. The U.S. OBBB was designed to address the 2025 TCJA Sunset. China’s implementation of its VAT law on January 1, 2026, demonstrates that Beijing is conducting a systematic reexamination as the new U.S. tax landscape solidifies. The primary Chinese goals of the reform are to simplify the system, reduce the tax burden, and align with international practice. These states’ goals mirror the U.S. OBBB’s goals of simplicity and growth. While the U.S. simplifies its Corporate Income Tax (CIT) to attract capital, China is simplifying its consumption-based VAT to reduce the operational costs for manufacturers. By lowering the cost of doing business through VAT reform, China is attempting to neutralize the OBBB’s income-tax-based subsidies.

PwC Worldwide Tax Summary from July 2025 provides another quantitative Strategic Baseline for China’s corporate tax regime. It points out that reduced rates are not automatic; enterprises must fulfill a set of prescribed criteria and undergo a formal assessment to qualify, reflecting

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<sup>140</sup> Guihua, *supra* note 2, at 4 (“China’s current corporate (income) tax rate is generally 25%, but the tax rate of high-tech enterprises is only 15%, plus the additional deduction of R&D expenses, the actual tax rate will fall again.”).

<sup>141</sup> *China Officially Enacts VAT Law, Ushering in a New Era of Tax Governance*, EY GLOB. (Jan. 6, 2025), [https://www.ey.com/en\\_gl/technical/tax-alerts/china-officially-enacts-vat-law-ushering-in-a-new-era-of-tax-governance](https://www.ey.com/en_gl/technical/tax-alerts/china-officially-enacts-vat-law-ushering-in-a-new-era-of-tax-governance) [<https://perma.cc/9XDS-DG76>].

<sup>142</sup> *Id.*

the legal nature of Chinese protectionism.<sup>143</sup> Unlike the OBBB, which provides broad statutory certainty, the Chinese model is interventionist. The assessment process allows the Chinese government to steer investment into specific sub-sectors, ensuring that tax relief is only granted to firms that align with national strategic goals. Further noted, China combines industry-specific national rates with regional clusters (like the Greater Bay Area or Hainan) as a multi-dimensional defense, whereas the OBBB is a federal policy. This allows China to create investment fortresses that are difficult for the OBBB to penetrate, as they offer a combination of low taxes and specialized local infrastructure within a federal political structure.<sup>144</sup> China is modernizing its tax code to play a larger role in the global multilateral system (like Pillar 2), using internationalism as a defensive shield. High-Tech and tax holidays for Semiconductors, consisting of 15% rates, protect specific, strategic supply chains. The U.S. offers a tax credit under I.R.C. Sec. 41, and China employs a much more generous R&D super-deduction, allowing a deduction of up to 200% of its R&D costs.<sup>145</sup> The OBBB permanent R&D expense is a direct response to offset the mathematical advantage brought by the Chinese institution. It is not a reform just about revenue, but about defining national power in a post-globalization world.

### *B. Sovereignty and Tech Policy Subsidy Arms Race*

The official interpretation from the Foreign Investment Administration Department of the Ministry of Commerce (MOFCOM) and the State

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<sup>143</sup> *Corporate: Taxes on Corporate Income*, PwC (Dec. 31, 2025), <https://taxsummaries.pwc.com/peoples-republic-of-china/corporate/taxes-on-corporate-income> [<https://perma.cc/F9MK-NS9C>].

<sup>144</sup> *Id.*

<sup>145</sup> It shall be noted, IRS, §41 commonly referred to as the Research and Development (R&D) Tax Credit, is a federal incentive designed to stimulate domestic innovation by providing a nonrefundable tax credit for qualified research expenses incurred within the United States. To qualify for the credit, an activity must satisfy a rigorous four-part test: it must be technological in nature, intended to improve a business component's functionality or quality, seek to eliminate technical uncertainty, and involve a systematic process of experimentation. While the credit effectively lowers the tax floor for strategic sectors—such as AI and semiconductors—to counter global competition, it specifically excludes research conducted outside the U.S. or after the start of commercial production. In the context of recent legislative shifts, Section 41 serves as a critical counter-subsidy mechanism that works alongside Section 174, where the permanent codification of R&D expensing aims to provide the institutional certainty required to anchor global productive capital and maintain technological sovereignty. *See generally* Chen Yikan, *China to Expand R&D Tax Deductions for Tech Firms to Up to 200% Under New Plan*, YICAI GLOB. (Nov. 12, 2025), <https://www.yicaiglobal.com/news/china-to-expand-rd-tax-deductions-for-tech-firms-to-up-to-200-under-new-plan> [<https://perma.cc/MT3V-GHMS>]; Tommy Zavieh, Sheila R. Anderson & Allen Tobin, *Big Changes for R&D Tax Breaks: What the "One Big Beautiful Bill" Means for Innovators*, FRAZIER & DEETER (July 11, 2025), <https://www.frazierdeeter.com/insights/article/big-changes-for-rd-tax-breaks-what-the-one-big-beautiful-bill-means-for-innovators/> [<https://perma.cc/K67U-V7WA>]; *see also* Joseph Heino, *New Federal Research Tax Credit Rules: How Increasing Research Activity Can Benefit Innovators From the One Big Beautiful Bill Act*, AMUNDSEN DAVIS (Mar. 18, 2026), <https://www.amundsendavislaw.com/alert-new-federal-research-tax-credit-rules-how-increasing-research-activity-can-benefit-innovators-from-the-one-big-beautiful-bill-act> [<https://perma.cc/WDL6-RVTY>].

Taxation Administration (STA)<sup>146</sup> specifies that the creditable taxable amount includes dividends, interest, and royalties (特许权使用费)<sup>147</sup> derived from the same profit-distributing enterprise. By including royalties, China is explicitly targeting high-tech and IP-heavy industries. This encourages Multinational Enterprises (MNEs) not just to keep manufacturing capital in China, but to continue their technology transfers and IP licensing within the Chinese market. It signals that China's counter-subsidy is specifically engineered to protect its position in the global tech value chain against the OBBB's R&D incentives. China's policy reduces tax friction for IP-related income that remains in China.

Dongguan Committee of the China Council for the Promotion of International Trade (CCPIT) published a report on July 24, 2025, providing an authoritative Chinese perspective on the OBBB.<sup>148</sup> The CCPIT report characterizes the OBBB not as a direct tariff barrier, but as a system of "indirect subsidies." While Chinese enterprises are not always 'directly restricted,' they face a "distorted and asymmetrical competitive environment."<sup>149</sup> The U.S. creates a "subsidized domestic harbor" that makes it impossible for Chinese firms to compete on price or scale without similar state intervention. The OBBB shifts the focus from Trade War tariffs to institutionalized tax reforms. The report argues that the OBBB sends a strong "America First" signal by centralizing resources in defense, traditional energy, agriculture, and AI technology.<sup>150</sup> It suggests that the OBBB is a tool for steering geopolitical resources. The U.S. uses the tax code to protect its most critical industries, effectively creating a state-led industrial policy under the guise of market-based tax reform. A major finding is the systemic expansion of Prohibited Foreign Entity (PFE) rules. The OBBB goes beyond the previous Foreign Entity of Concern (FEOC) definitions to include Specified Foreign Entities (SFE) that are direct targets (e.g. Chinese government-controlled firms) and Foreign-Influenced Entities (FIE) that are firms with significant Chinese financing or executive control.<sup>151</sup> One may argue that the OBBB is a weaponized legislation

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146 *Interpretation on the 'Announcement of the State Taxation Administration Regarding the Policy of Tax Credit for Foreign Investors to Directly Invest with Distributed Profits'*, *supra* note 133.

147 *Id.* ("The corporate income tax that an overseas investor may credit must simultaneously satisfy the following conditions: it is the tax payable on income derived from the same profit-distributing enterprise; the type of income is dividends, interest, royalties, etc.; and the income is received after the time of reinvestment").

148 China Council for the Promotion of Int'l Trade Dongguan Comm., *The Impact of the U.S. Bigger & Better Act on Chinese Export-Oriented Trading Enterprises and Companies Investing in the U.S. Investing Enterprises*, GOVT INFO. OPENNESS (July 24, 2025) (China).

149 *Id.*

150 *Id.*

151 *Id.*; see *Interpretation of the Prohibited Foreign Entity Provisions of the Great and American Act*, SINA FIN. (Sep. 10, 2025), <https://baijiahao.baidu.com/s?id=1842872748636372712&wfr=spider&for=pc> [<https://perma.cc/AD9B-8CXT>].

designed to disqualify any company with Chinese supply chain links from receiving U.S. clean energy or manufacturing tax credits. The OBBB uses statutory exclusion to force the decoupling of high-tech supply chains. The report explicitly defines the OBBB as trade protectionism in the name of national security.<sup>152</sup> It warns that these measures not only harm Chinese firms but also hinder global efforts to combat climate change by excluding China's dominant battery and solar supply chains. While the U.S. frames the OBBB as a "renewal" bill, the Chinese view is that it destroys the global tax stability and equity. The CCPIT emphasizes that the OBBB cannot be analyzed in isolation. It must be viewed alongside Section 232/301 tariffs and reciprocal tariff mechanisms as part of a policy combo.<sup>153</sup> It provides that the OBBB shall not be viewed in isolation from other trade tools implemented by the U.S. government. The tariffs provide the external pressure, the OBBB draws capital into the U.S., creating a multi-dimensional strategy to isolate the Chinese economy.

For example, massive U.S. clean energy subsidies (originally from the IRA and expanded by the OBBB) were inadvertently flowing to Chinese firms and technology through joint ventures and supply chain links. U.S. policymakers viewed these flows as a subsidy leak that strengthened a geopolitical rival. Reducing the Chinese threat requires a total cleanup of the supply chain to achieve autonomous control. By making tax credits contingent on the absence of Chinese components, the U.S. is using the tax code to forcibly relocate the entire green-energy manufacturing base. The OBBB is thus a corrective measure designed to ensure that U.S. taxpayer dollars only subsidize domestic or friendly supply chains.<sup>154</sup> It requires a material and product audit to detect the presence of FEOC.<sup>155</sup> The new FEOC rules target the legal person and their control structure. Even if a battery is made in Mexico or the U.S., it can be disqualified if the technology license or 25% of the equity is linked to a prohibited foreign entity. The FEOC clause acts as a digital barrier automatically disqualifying any project

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152 China Council for the Promotion of Int'l Trade Dongguan Comm., *supra* note 1 ("Such practices, which use national security as a pretext to pursue trade protectionism, not only harm the legitimate rights and interests of Chinese enterprises but also undermine global efforts to address climate change.")

153 *Id.* ("From a medium- to long-term perspective, the impact of the 'Big and Beautiful Act' cannot be analyzed in isolation. It must be systematically assessed in conjunction with the interactive changes of policy variables such as Section 232 tariffs, Section 301 tariffs, and reciprocal tariff mechanisms, to account for the cumulative effect of the combined U.S.-China trade policy measures").

154 Shi Yubin, *Big Beautiful "Bill or Bomb"? Will FEOC End Chinese Enterprises in the U.S. New Energy Industry?—In-Depth Analysis and Countermeasures of the "One Big Beautiful Bill Act,"* ALLBRIGHT L. FIRM (July 4, 2025), (China), <https://www.allbrightlaw.com/SH/CN/10475/c2bbdbae2f7cac5.aspx> [<https://perma.cc/SCG6-5UNU>].

155 *Id.* ("In recent years, the U.S. government has passed the Uyghur Forced Labor Prevention Act (UFLPA) to comprehensively improve supply chain scrutiny for international trade, while the FEOC provisions of OBBB clarify the need to review materials or products in the supply chain for the presence of FEOC.").

that uses even a small percentage of Chinese-controlled materials, thereby institutionalizing a Zero-China policy in the U.S. energy sector.<sup>156</sup>

PwC Worldwide Tax Summary confirms that qualified enterprises in the Lingang New Area of the Shanghai Pilot Free Trade Zone can benefit from a reduced 15% Corporate Income Tax (CIT) rate for five years.<sup>157</sup> China's lowering of the tax rate to 15% directly responds to the geopolitical threat posed by the OBBB to restore manufacturing. China expects the most crucial parts of the supply chain—R&D and production—to remain in China. China's proposal creates a more geographically integrated industrial ecosystem that makes it harder for firms to replicate in the U.S., even with the OBBB permanency.<sup>158</sup>

The effectiveness of Chinese incentives historically relied on OECD countries not taxing foreign business income on a current basis. The U.S. (via the NCTI<sup>159</sup>) has moved toward taxing foreign income, effectively destroying the value of Chinese incentives for U.S. firms.<sup>160</sup> It is clear that China's refusal to join the OECD stems from the belief that collective OECD actions (such as Pillar 2) lead to a redistribution of wealth from developing countries (like China) back to developed OECD nations.<sup>161</sup> The OBBB and Pillar 2 are more than anti-avoidance tools; they are also geo-economic tools to repatriate wealth. Before the trade war, China provided

<sup>156</sup> *Id.* (“The U.S. government has gradually realized that in order to truly ‘de-Sinicize’ it must completely clean up the supply chains and achieve independent and controllable supply chains.”).

<sup>157</sup> *Corporate: Taxes on Corporate Income*, *supra* note 143 (“Qualified enterprises engaged in substantial production or research and development (R&D) activities in key industries . . . in the Lingang New Area of the Shanghai Pilot Free Trade Zone are eligible for a reduced CIT rate of 15% for five years”).

<sup>158</sup> *Id.*

<sup>159</sup> The One Big Beautiful Bill Act (OBBB) establishes a permanent fiscal provision designed to align the United States with the OECD's Pillar Two global minimum tax framework. Functioning as a de facto recognition of residence-based sovereignty, the NCTI applies a minimum tax rate of between 12.6% and 14% to foreign income through a global blending formula, allowing multinational enterprises (MNEs) to offset low-tax and high-tax jurisdictions for greater efficiency. Daniel Sheinfeld, *The One Big Beautiful Bill Act: Key International Tax Provision Changes and Consideration*, SINGERLEWAK (Jan 27, 2026), <https://singerlewak.com/the-one-big-beautiful-bill-act-key-international-tax-provision-changes-and-considerations/> [<https://perma.cc/3S5B-WUGK>]; see generally Pieter Baert, *Side-by-Side? The Future of Pillar Two Minimum Corporate Tax Rules*, EUR. PARLIAMENTARY RSCH. SERV. (Sep. 15, 2025), [https://www.europarl.europa.eu/RegData/etudes/ATAG/2025/775918/EPRS\\_ATA\(2025\)775918\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2025/775918/EPRS_ATA(2025)775918_EN.pdf) [<https://perma.cc/XCT5-B6HD>]. Unlike the Base Erosion and Anti-Abuse Tax (BEAT), which serves as a unilateral protectionist measure, the NCTI is designed for international tax coordination to ensure that MNEs pay a consistent global floor of tax. By codifying this statutory nexus, the U.S. uses the NCTI to secure its right to tax worldwide earnings while competing against the “jurisdictional blending” models adopted by the European Union and France. Carl Davis, *NCTI is an Important Part of the Federal Corporate Tax. States Should Adopt It Too*, ITEP (Feb. 12, 2026), <https://itep.org/ncti-is-an-important-part-of-the-federal-corporate-tax-states-should-adopt-it-too/> [<https://perma.cc/V4NJ-QGXH>].

<sup>160</sup> Jinyan Li, *The Rise and Fall of Chinese Tax Incentives and Implications for International Tax Debates*, 8 FLA. TAX REV. 669 (2008).

<sup>161</sup> *Id.* at 707-08.

the market and labor, while the U.S. offered capital.<sup>162</sup> The post-OBBB period prioritizes “residence sovereignty” (the right to tax worldwide) over “source sovereignty”<sup>163</sup> (the right to incentivize local growth). China’s use of 10% or 15% rates is a domestic sovereign choice to attract investment; the U.S. attempt to reach out and tax those earnings via the OBBB is likely to be considered by the Chinese government as an extraterritorial overreach that violates the inter-nation equity principle.

Between 2022 and 2024, China introduced its Data Property Rights System, while the EU enacted the General Data Protection Regulation (GDPR). These are not just technical regulations; they are domestic laws designed to secure sovereignty over data, while the OBBB uses tax incentives to attract IP and digital capital to the United States. Defining how data is owned and shared ensures that the value generated by their citizens and businesses remains within their jurisdictional control.<sup>164</sup> A key legal distinction is that Chinese incentives of data capital assign property rights to data processors, whereas the EU protects its sovereignty by imposing obligations on them.<sup>165</sup> China encourages domestic tech firms to accumulate and commercialize data locally, countering the OBBB’s R&D incentives. It balances security with commercialization through a national negative list for data outflows.<sup>166</sup> This list explicitly defines what data cannot leave the country, with green channels only for approved industries. Hence, U.S. MNEs may benefit from OBBB tax breaks at home, but if they want to operate in China, they cannot repatriate the underlying data assets that drive their AI and algorithms.

### *C. OBBB on Chinese Investment Strategy*

To qualify for the tax credit, foreign investors must continuously hold their reinvestment for at least 60 months (5 years).<sup>167</sup> This is the core of China’s long-term capital lock-in mechanism. China uses a statutory holding period to prevent capital from leaving. By making the credit contingent on a 5-year commitment, China converts mobile multinational profits into attached productive capital that supports national industrial stability. If the 5-year requirement is not met, the credit is proportionally

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<sup>162</sup> *Id.* at 671-72.

<sup>163</sup> *Id.* at 695, n.128.

<sup>164</sup> Jie Huang, *The Rise of Data Property Rights In China: How Does It Compare With The EU Data Act And What Does It Mean For Digital Trade With China?*, 27 J. INT’L ECON. L. 462, 464-65, 477 (2024).

<sup>165</sup> *Id.*

<sup>166</sup> *Id.*

<sup>167</sup> *Interpretation on the ‘Announcement of the State Taxation Administration Regarding the Policy of Tax Credit for Foreign Investors to Directly Invest with Distributed Profits’*, *supra* note 133, at 2 (“Company A holds this reinvestment for 60 months, from October 2025 to September 2030, which meets the requirement that reinvestment must be held continuously for at least 5 years (60 months).”).

reduced, and the investor must repay the deferred withholding tax (WHT) plus late payment fees (滞纳金) calculated from the date the credit was first claimed.<sup>168</sup> The Chinese legal deterrent against short-term speculative behavior, through the late payment fee, serves as a financial penalty that raises the exit cost for any firm attempting to repatriate profits to the U.S. during the OBBB window. It guarantees that the tax policy functions as a firm commitment rather than a flexible option.

The Ministry of Commerce of the People's Republic of China (MOFCOM) and STA document also provide an order of recovery<sup>169</sup> when an investor withdraws capital: 1) investment that enjoyed tax credit; 2) investment that was disqualified for but did not claim the credit; 3) investments under the old deferral-only policy; 4) other investments. The government ensures that any early exit immediately triggers the highest possible tax recapture and penalties. This maximizes the state's leverage over the most protected assets.

The OBBB appears to be a subtle but powerful form of indirect protectionism, making U.S. developers legally liable for the FEOC-purity<sup>170</sup> of their projects. The OBBB makes it too risky for them to work with Chinese suppliers. Even if a Chinese component is technically superior or cheaper, the compliance cost of proving it is not an FEOC becomes a non-tariff barrier that shuts the door on Chinese vendors. The survivors will only be the excellent Chinese enterprises—those capable of extreme legal agility, high compliance investment, and business model flexibility.<sup>171</sup> The OBBB here functions as a systemic filter to eliminate unstructured or non-compliant firms. Doctrinally, the OBBB is forcing a Darwinian evolution of Chinese MNEs. Only those firms that can restructure their equity (e.g. dropping below 25% ownership) and invest in Western-standard audit systems will remain, but at a significantly higher cost of doing business.

The Dongguan Committee of the China Council for the Promotion of International Trade (CCPIT) highlights that the PFE clause (Prohibited Foreign Entity) makes it nearly impossible for projects involving Chinese “Material Assistance” to qualify for tax credits under the OBBB/IRA framework, especially for projects starting after December 31, 2025.<sup>172</sup> The

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168 *Id.* at 4 (If an overseas investor “does not meet the conditions of the tax credit policy but actually enjoys the credit policy, resulting in underpayment of tax . . . a late payment penalty will be imposed from the date of enjoying the tax credit policy (i.e., the day the tax is deducted)”).

169 *Id.* at 6 (When an overseas investor disposes of a direct investment, the order for “confirmation for investment recovery is as follows: investment that have already enjoyed tax credit policies – investment that qualify for tax credit policy but have not actually enjoyed them – investment that enjoy deferred tax payment policies but do not qualify for tax credit policies – other investments.”).

170 Yubin, *supra* note 154, at 1.

171 *Id.*

172 *The Impact of the U.S. Bigger & Better Act on Chinese Export-Oriented Trading Enterprises and Companies Investing in the U.S. Investing Enterprises*, *supra* note 148 (“For example, if a project

OBBB effectively excludes Chinese capital from existing Chinese-backed energy projects in the U.S., leading to immediate losses or strategic paralysis for those investors. Chinese firms are forced into a binary choice: relinquish equity or control to qualify for U.S. federal subsidies, or retain control and face a significant competitive disadvantage due to the loss of those subsidies.<sup>173</sup> The American institutional suppression forces Chinese companies out of the U.S. corporate structure, undermines the legal rights of Chinese shareholders, and forces a structural decoupling of joint ventures. Interestingly, the report identifies a short-term export dividend for Chinese manufacturing equipment.<sup>174</sup> As U.S. domestic firms rush to build their own supply chains to meet OBBB requirements, they temporarily rely on high-quality, low-cost Chinese machinery, but in the long term, the very equipment being exported is used to build a U.S. industrial base designed to eventually exclude China entirely. The report concludes that the era of easy investment is over because of the presence of strategically sensitive industries, including AI, Green Tech, and Semiconductors.<sup>175</sup> The OBBB marks a policy inflection point toward systematic tightening and decoupling. The OBBB has transformed the U.S.-China relationship from competitive cooperation to a systematic unhooking. This act signals a permanent shift in how the U.S. treats Chinese-linked capital.

## V. CONCLUSION

In conclusion, the One Big Beautiful Bill Act represents the most significant shift toward tax-based protectionism in modern legislative history. It is not merely a tax reform, but a mercantilist tool designed for institutional permanence. By permanentizing provisions such as the 21% Corporate Income Tax and 100% bonus depreciation, the U.S. has created a safe harbor for capital, aiming to prevent future policy reversals that could cause legal uncertainty. The U.S. uses unilateral tax relief as an incentive to pull capital and R&D back to the domestic industry. France relies on multilateral legality, tightening transfer pricing audits, and implementing Pillar 2 to neutralize investments and protect digital sovereignty. China employs industry-specific incentives, such as the R&D super-deduction and reinvestment tax credits, to create mathematical advantages that keep capital anchored within its borders.

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commences after December 31, 2025, and involves ‘Material Assistance’ from the PFE, it may be ineligible for subsidies.”).

<sup>173</sup> *Id.*

<sup>174</sup> *Id.* (“In the initial stage . . . to rebuild their own supply chains, some Chinese equipment manufacturers . . . [were seen as] a temporary boost in exports”).

<sup>175</sup> *Id.* (“Compared to traditional manufacturing, Chinese investments in these ‘strategically sensitive industries’ is entering a period of institutional tightening and policy decoupling.”).

The OBBB transformed the US-FR from doctrinal allies into entities of unsolvable sovereignty-related legal controversies, and the U.S.-China relationship from strategic interdependence to a policy-driven decoupling. A precarious G7 Side-by-Side coexistence that replaces traditional multilateral cooperation with a fragmented, yet managed, institutional rivalry due to a distinct view of DST and BEAT. The systematic expansion of Prohibited Foreign Entity (PFE) and FEOC rules serves as a compliance restriction that institutionalizes a Zero-China policy in strategic sectors like green energy and AI. While China attempts to lock in capital through 5-year reinvestment requirements, the U.S. uses the tax code to forcibly relocate manufacturing bases.

The OBBB ultimately fragments the global investment environment. By prioritizing U.S. economic sovereignty over international norms, the U.S. has effectively challenged the OECD's multilateral frameworks, leading to a New Cold War in tax diplomacy, in which tax codes serve as the primary indicator of a state's economic and technological performance.

## GLOSSARY OF ABBREVIATION

Abbreviation	Definition
AI (Artificial Intelligence)	The field of computer science dedicated to creating systems capable of performing tasks that typically require human intelligence, such as reasoning, learning, and problem-solving
BEAT (Base Erosion and Anti-Abuse Tax)	A unilateral U.S. anti-avoidance rule designed to limit income shifting through related-party cross-border payments
BOFiP (Bulletin Officiel des Finances Publiques / Official Tax Notice)	The official tax notice issued by the French Directorate General of Public Finance to clarify tax regulations and audit procedures
CCPIT (China Council for the Promotion of International Trade)	A Chinese organization that provides authoritative perspectives on how international legislation like the OBBB affects domestic trade and enterprises
CGI (Code Général des Impôts / General Tax Code)	The French General Tax Code, which serves as the primary source of tax legislation and adheres to the constitutional principle of legality
CIT (Corporate Income Tax)	The statutory tax rate applied to a corporation's profitable income or realized gains during a determined period
CVAE (Cotisation sur la Valeur Ajoutée des Entreprises)	A French local business tax whose scheduled abolition was postponed to address national budget deficits
DGFIP (Direction générale des Finances publiques / Directorate General of Public Finances)	The primary French authority responsible for administering the national tax code and maintaining fiscal sovereignty
DST (Digital Services Tax)	A sovereign tax defense leveraged by France to protect its digital market from asymmetrical influence by large foreign technology firms
EU (European Union)	A multilateral legal framework and union of member states that coordinates regional tax directives and trade policies
FDI (Foreign Direct Investment)	Long-term physical investments, such as factories or subsidiaries, made by a company in a foreign jurisdiction

FEOC (Foreign Entity of Concern)	A statutory designation used to identify and exclude specific foreign-linked supply chains from receiving U.S. tax credits
FIE (Foreign-Influenced Entities)	Firms that possess significant foreign financing or executive control, making them targets for specific regulatory scrutiny
FY25 (Fiscal Year 2025)	The specific 12-month period used by an organization or government for its budget and financial reporting that concludes during the 2025 calendar year
G7 (Group of Seven)	An informal intergovernmental forum of seven of the world's most advanced economies—Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States—that meets to coordinate global policy
GDPR (General Data Protection Regulation)	A European legal framework that imposes strict privacy and transparency obligations on how data is managed and audited
GDP (Gross Domestic Product)	A quantitative measure of a country's total economic output used to evaluate the long-run impact of tax policy changes
GloBE (Global Anti-Base Erosion)	A set of model rules designed to ensure multinational enterprises pay a minimum level of tax regardless of where they operate
HNTE (High-New Tech Enterprise)	A preferential tax designation for companies in strategic sectors that qualify for reduced tax rates in China and France
IMF (International Monetary Funds)	An international organization whose regulatory frameworks help guide the multilateral fiscal strategies of countries like France
IRA (Inflation Reduction Act)	A U.S. legislative framework establishing clean energy subsidies that the OBBB seeks to recalibrate or expand
IRS (Internal Revenue Service)	The domestic body of tax laws in the United States that governs federal income taxation
MNEs (Multinational Enterprises)	Large corporations with operations in multiple countries that are the primary focus of international tax competition and

	regulation
MOFCOM (Ministry of Commerce)	The Chinese government body responsible for formulating national strategies regarding foreign investment and trade
MSMEs (Micro, Small and Medium-Sized Enterprises)	Small or medium-sized enterprises that may face capital accumulation challenges due to high levels of double taxation in certain jurisdictions
NCTI (National Corporate Top-Up Income Tax)	A permanent U.S. tax mechanism designed to ensure that multinational enterprises maintain a minimum effective tax rate on foreign income
OBBA (One Big Beautiful Bill Act)	A proposed U.S. legislative instrument designed to permanentize tax incentives and provide institutional certainty for global capital
OECD (Organization for Economic Cooperation and Development)	An international organization that develops global tax standards, such as the Pillar 2 minimum tax directives
P2D (Pillar 2 Directive)	A regulatory framework implementing the OECD's global minimum tax agreement, ensuring that large multinational corporations pay an effective tax rate of at least 15% in every jurisdiction where they operate
PFE (Prohibited Foreign Entity)	A form of statutory exclusion that disqualifies projects with specific foreign involvement from receiving U.S. federal tax credits
QBI (Qualified Business Income)	A tax provision aimed at simplifying the capital gains system and providing a fixed statutory baseline for business earnings
R&D (Research and Development)	Activities aimed at innovation and technological advancement that are often supported by specific tax deductions or super-deductions
SFE (Specified Foreign Entities)	Specific targets of U.S. statutory exclusions, typically referring to firms controlled by designated foreign governments
STA (State Taxation Administration)	The central Chinese government authority responsible for managing national tax policy and incentive-based defenses

TCJA (Tax Cuts and Jobs Act)	The 2017 U.S. tax law whose sunset provisions the OBBB seeks to replace with permanent codification
VAT (Value-Added Tax)	A consumption-based tax system that China is currently formalizing into law to improve predictability for international investors
WHT (Withholding Tax)	A tax levied at the source on income—such as dividends or royalties—distributed to foreign beneficiaries