Corporate Alternative Minimum Tax (AMT) Overview

Presented to the Business Tax Reform Commission

On 9/10/2009

By Matthew Caminiti
Bureau of Revenue Estimates

Alternative Minimum Tax (AMT) Defined

- A minimum amount of tax that a corporation pays, if its calculated liability is less than the defined AMT amount
- A State AMT amount can be defined in any number of ways:

  - A flat amount

  - Calculated based off of gross receipts, federal AMTI, or some other measure

  - A filing fee accompanied by a tax exemption or credit

The Federal AMT

- Modern version: Enacted as part of the Tax Reform Act of 1986
- Originally enacted in 1969 as the “corporate minimum tax”
- Modifications made in 1993 and 1997
- Failed attempt at repeal in 2001

Federal Alternative Minimum Taxable Income

- AMTI begins with Taxable Income before the NOL deduction
- AMTI Preferences may be additions or subtractions to this Taxable Income
- Applies a 20% tax rate to a broader definition of income
- Accelerates, does not necessarily increase, tax collections

Accelerated Revenue from the Corporate AMT

In most cases, because of the credit for AMT paid, tax revenue is accelerated but not increased

<u>Example</u>:

1. In 2006, XYZ Corp. calculates its regular liability as $1,000 and its AMT as $2,000. Therefore, XYZ Corp. is subject to the AMT and pays $2,000 in tax in 2006, or an additional $1,000.

2. In 2007, XYZ Corp. calculates its regular liability as $5,000 and its AMT as $3,000, and therefore is subject to the regular tax amount. However, because XYZ Corp. paid an extra $1,000 in 2006, it deducts $1,000 from its 2007 liability and pays only $4,000 in tax.

3. Under the AMT rules, XYZ Corp. paid $6,000 to the federal government over the two year period ($2,000 + $4,000). Without the AMT rule, it would still have paid $6,000 ($1,000 + $5,000) over the same two-year period. However, the federal government receives an accelerated payment of $1,000 in 2006.

Accelerated Revenue Summary

If a taxpayer starts paying the corporate AMT and never returns to paying the regular tax, then the AMT liabilities it pays over the years are permanent increases in its tax liability.

Alternatively, if the taxpayer sometimes pays AMT but thereafter pays the regular tax often enough and in large enough amounts so that it exhausts its AMT credits, then the effect of the AMT is to accelerate the taxpayer’s tax payments, not to increase them.

General Arguments in favor of the Corporate AMT

- The Corporate AMT improves the perceived “fairness” of the corporate income tax (corporations pay more in taxes because of the focus on economic income and the AMT creates a “level playing field”).

- The AMT ensures that nearly all corporations pay some tax every year, even if the tax is reduced in future years due to AMT credits.

- The AMT discourages investment in tax preferred assets and reduces the use of tax credits that may result in negative liability and a negative effective tax rate.

General Arguments in favor of the Corporate AMT (con't)

- The AMT helps reduce the use of corporate tax shelters. Without the AMT in place to serve as a backup, some corporations would take advantage of tax loopholes that they currently cannot use.

- The AMT accelerates revenues for the federal government.

- Repealing the Corporate AMT would do little to stimulate the economy in the short-term and could increase budget deficits.

General Arguments against the Corporate AMT

- The AMT discourages investment in production activities

- The AMT misallocates resources because it changes who makes investments, how the investments are made, how they are financed, and when they occur

- The AMT increases administrative costs as many businesses have to keep records for both the regular and AMT calculation

General Arguments against the Corporate AMT (con't)

- The AMT is paid by very few businesses and results in a relatively small amount of additional revenue; it does not necessarily affect all firms or industries equally

- The AMT is poor fiscal policy because it essentially increases tax liability for businesses during recessionary periods and decreases them during boom periods

- The AMT reduces the global competitiveness of U.S. firms

The State Corporate AMT

Approximately 22 states, including Washington, D.C., have some variation of a Corporate AMT

<u>Maryland's Neighbors with an AMT:</u>

- Washington, D.C. ($100 fixed)
- Virginia
  - Electric companies (1.45% of gross receipts)
  - Telecommunications (0.5% of gross receipts)
- New Jersey ($500 - $2,000, based on gross receipts) – *Current law*
- New York ($25-$5,000, based on NY receipts)

The New Jersey AMT

The AMT calculation in place from TY 2002 – 2006 was the same calculation as the MD proposed legislation, with the same minimum AMT amount of $5,000,000 and the availability of an AMT credit in future years. Like the federal legislation, this resulted in accelerated payments rather than an increase in revenue. This provision sunset after TY 2006.

MD Proposed AMT Legislation (Since 1996)

- SB 748/HB 1135 (2005) & SB 22 (2007 Special Session)
- Both mirror the New Jersey AMT, *with the availability of an AMT credit in future years*
- Corporations calculate an AMT using two different methods – The chosen method must be used for the next 4 years
- The AMT is limited to $5,000,000
- Gross profit = MD gross receipts - Returns & Allowances – COGS (Cost of Goods Sold)
- Using TY 2006 corporate return data, the bills are estimated to increase Corporate Income Tax Collections by roughly 40%

Corporate Filing Fees

- Corporate filing fees are another way to impose an additional tax on corporations
- A filing fee can serve as an AMT if coupled with an exemption amount equal to the amount of the filing fee, or a non-refundable tax credit in the amount of the filing fee.
- The current Maryland filing fee for corporations' annual reports is $300. This is not collected as part of the income tax, and thus is an addition to income tax liability already being paid.
- The amount was increase from $100 to $300 with the passage of HB 935/SB 657 in the 2003 Legislative Session.

SB748/HB1135 (2005)

Method #1:

If MD Gross Profit is…	The AMT is…
< or equal to $1,000,000	$0
$1,000,000 - $10,000,000	0.0025 x gross profits in excess of $1 million multiplied by 1.111111
$10,000,000 - $15,000,000	0.0035 x gross profits
$15,000,000 – $25,000,000	0.006 x gross profits
$25,000,000 – $37,500,000	0.007 x gross profits
> $37,500,000	0.008 x gross profits

Method #2:

If MD Gross Receipts are…	The AMT is…
< or equal to $2,000,000	$0
$2,000,000 - $20,000,000	0.00125 x gross receipts in excess of $1 million multiplied by 1.111111
$20,000,000 - $30,000,000	0.00175 x gross receipts
$30,000,000 – $50,000,000	0.003 x gross receipts
$50,000,000 – $75,000,000	0.0035 x gross receipts
> $75,000,000	0.004 x gross receipts

SB 22 (2007 Special Session)

Method #1

If MD Gross Profit is…	The AMT is…
< or equal to $2,000,000	$0
$2,000,001 - $10,000,000	0.0025 x gross profits in excess of $1 million multiplied by 1.111111
$10,000,000 - $15,000,000	0.0035 x gross profits
$15,000,000 – $25,000,000	0.006 x gross profits
$25,000,000 – $37,500,000	0.007 x gross profits
> $37,500,000	0.008 x gross profits

Method #2:

If MD Gross Receipts are…	The AMT is…
< or equal to $10,000,000	$0
$10,000,000 - $20,000,000	0.00125 x gross receipts in excess of $1 million multiplied by 1.111111
$20,000,000 - $30,000,000	0.00175 x gross receipts
$30,000,000 – $50,000,000	0.003 x gross receipts
$50,000,000 – $75,000,000	0.0035 x gross receipts
> $75,000,000	0.004 x gross receipts

References and Additional Information

Carlson, Curtis P. *The Effect of the 2001 Recession and Recent Tax Changes on the Corporate Alternative Minimum Tax*. OTA Paper 94: U.S. Department of the Treasury (June 2005).

Chovrat, Terrence R. and Michael S. Knoll. *The Economic and Policy Implications of Repealing the Corporate AMT.* The Tax Foundation (2002). Retrieved at: http://www.law.upenn.edu/fac/mknoll/camt.pdf

Forsberg, Mary E. *A Question of Balance: Taxing Business in the 21st Century*. New Jersey Policy Perspective (NJPP) Reports (January 2003). Retrieved at: http://www.njpp.com/rpt_cbt-report.html

Greenstein, Robert, Joel Friedman and Edwin Park. *House Opts to Press for More Tax Cuts Rather than Ensure Quick Enactment of Extended Unemployment Benefits.* Center on Budget and Policy Priorities (March 4, 2002). Retrieved at: http://www.cbpp.org/cms/?fa=view&id=1082

Johnson, Nicholas and Michael Mazerov. *Additional Options for Revenue in Maryland*. Center on Budget and Policy Priorities (2007). Retrieved at: http://www.cbpp.org/files/10-26-07sfp2.pdf

Kaluzy, Richard L. *Corporation Business Tax Reform: New Jersey and Beyond.* New Jersey Division of Taxation, Office of Revenue and Economic Analysis. FTA Revenue Estimating Conference. (October 1, 2002).

Michel, Norbert J. *The Perfect Target for Tax Reform: The Corporate AMT*. Heritage Foundation (2005). Retrieved at: http://www.heritage.org/research/taxes/wm719.cfm

McIntyre, Robert S., Director, Citizens for Tax Justice Concerning, Statement Concerning the Alternative Minimum Tax Before the Senate Finance Committee (May 3, 1995). Available at: http://www.ctj.org/html/amt595.htm

United States General Accounting Office. *Tax Policy: Experience With the Corporate Alternative Minimum Tax.* Report to the Honorable William J. Coyne, House of Representatives (April 1995).

Wunder, Haroldene F., *Comparing State Taxes When Making Business Decisions.* The CPA Journal (1991). Retrieved at: http://www.nysscpa.org/cpajournal/2008/308/essentials/p38.htm