Controlled Foreign Corporations, 2010

by Jason Wenrich

For Tax Year 2010, foreign corporations controlled by U.S. multinational corporations held $15.9 trillion in assets and reported receipts of $6.2 trillion. These controlled foreign corporations (CFCs) paid $114.4 billion in foreign income taxes on $822.0 billion of earnings and profits (E&P) (less deficit) before income taxes. While E&P (less deficit) increased by more than 24 percent from Tax Year 2008, CFC assets and receipts increased less than 10 percent and foreign taxes paid decreased.

Almost 79 percent, or 66,225, of CFCs for Tax Year 2010 were concentrated in three major industrial sectors: (1) services; (2) goods production; and (3) distribution and transportation of goods. These three industrial sectors accounted for 84.5 percent of total receipts ($5.2 trillion), 77.8 percent of E&P (less deficit) before income taxes ($639.9 billion), and 63.9 percent of income taxes ($73.2 billion). Foreign corporations in the finance, insurance, real estate, and rental and leasing sector held 36.8 percent of total CFC assets ($5.9 trillion) while generating only 8.4 percent of total CFC receipts ($519.1 billion) and 10.3 percent of total CFC E&P (less deficit) before income taxes ($84.6 billion).

For Tax Year 2010, some 84,260 CFCs were incorporated in 186 different countries.[1] Almost 41 percent, or 34,301, of these CFCs were incorporated in Europe. Nearly 91 percent of these European CFCs were located in European Union countries. Asian CFCs accounted for 25.3 percent of all CFCs; 14.1 percent were incorporated in Latin America.

Controlled Foreign Corporations as Vehicles for Direct Foreign Investment

Direct foreign investment by U.S. persons may take several forms, including foreign branches, partnerships, and separate corporations. This article deals with the use of the corporation as a vehicle for direct foreign investment. For U.S. income tax purposes, a foreign corporation is "controlled" if U.S. shareholders own more than 50 percent of its outstanding voting stock, or more than 50 percent of the value of all its outstanding stock (directly, indirectly, or constructively) on any day during the foreign corporation's tax year. A "noncontrolled" foreign corporation is any foreign corporation that fails to meet either of the above requirements for control. For purposes of determining control, a U.S. shareholder is defined as a U.S. person who owns 10 percent or more of the foreign corporation's total combined voting stock.[2] However, for Statistics of Income purposes, a foreign corporation is controlled only if one U.S. corporation satisfies either of the above 50-percent ownership requirements for an uninterrupted period of at least 30 days during the foreign corporation's tax year.[3] For Tax Year 2010, there were 12,358 U.S. corporations that held such control over 84,260 CFCs. All statistics in this article pertaining to CFCs meet this definition.

In general, the income of a CFC is not taxable to the U.S. shareholders until repatriated in the form of a dividend. Prior to 1962, U.S. taxpayers could defer U.S. tax on such income indefinitely by accumulating this income in a CFC. To address the potential for tax avoidance, Congress enacted the Subpart F provisions of the Internal Revenue Code in 1962.[4] These provisions require certain items of income to be treated as dividends deemed paid to the U.S. shareholders and, therefore, subject to current U.S. taxation. Currently, a U.S. shareholder of a CFC may be required to include in gross income the shareholder's ratable share of the CFC's: (1) Subpart F income;[5] (2) earnings invested in U.S. property; (3) previously excluded Subpart F income withdrawn from "qualified investments" in less developed countries; (4) previously excluded export trade income withdrawn from investment in export trade assets; and (5) factoring income (income derived from the acquisition of a trade or service receivable). For Tax Year 2010, CFCs reported a total of $81.9 billion of Subpart F income.

Assets, Receipts, and Earnings and Profits for CFCs by Industrial Sector

For Tax Year 2010, goods producers accounted for 14.4 percent of end-of-year assets and 34.5 percent of total receipts (see Figure A). CFCs in this industrial sector earned 26.2 percent of the E&P (less deficit) before income taxes for all corporate-owned CFCs. Goods producers paid $27.8 billion of foreign taxes, representing 24.3 percent of all foreign taxes paid by CFCs. Food, beverage and tobacco, chemical, computer and electronic products, and transportation equipment manufacturers collectively reported 63.4 percent of end-of-year assets, 64.0 percent of total receipts, and 71.0 percent of E&P (less deficit)

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[1] Based on unpublished data.

[2] The current definition of a Controlled Foreign Corporation is provided in Internal Revenue Code section 957. Ownership attribution rules are provided in section 958.

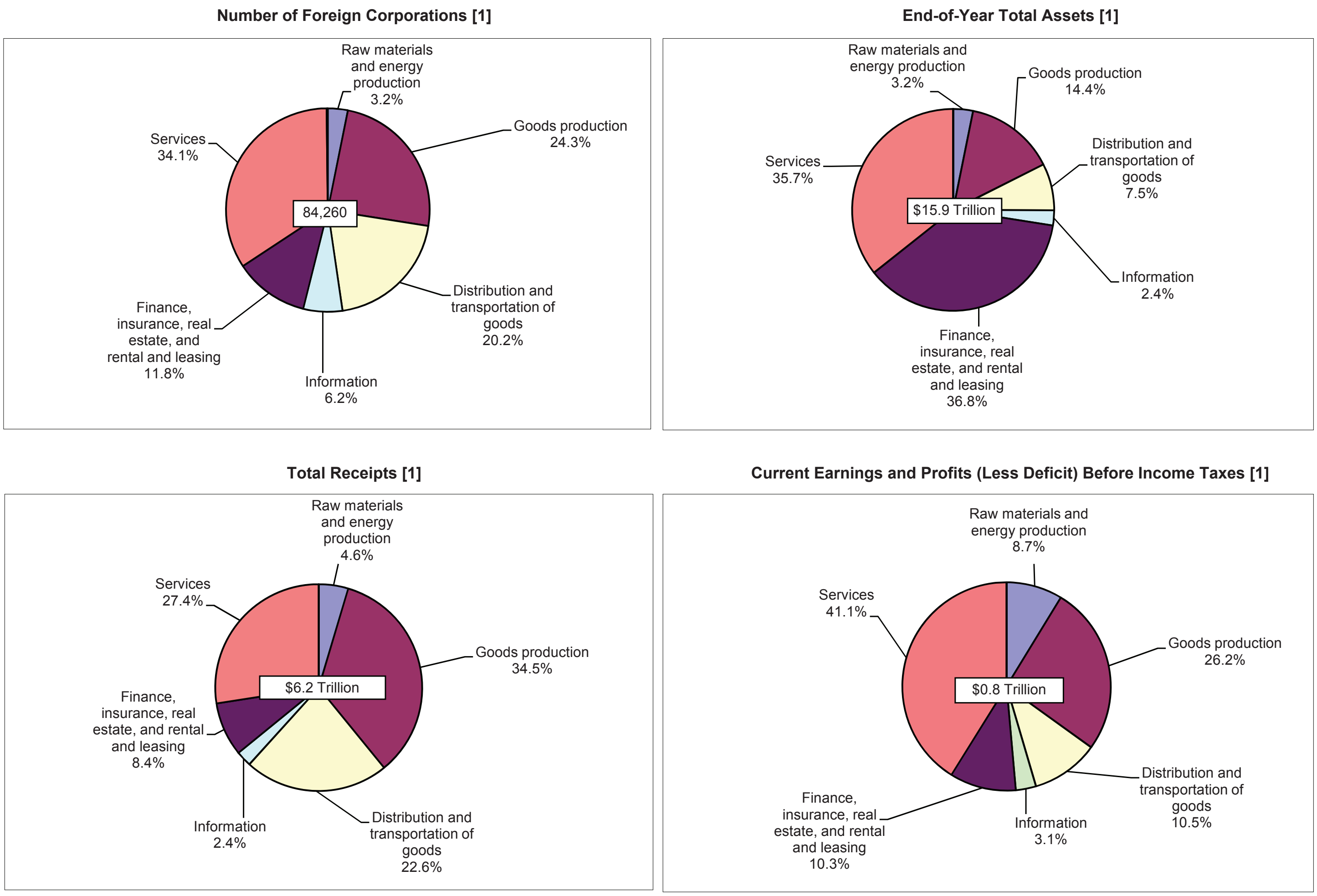
[3] The statistics in this article pertain only to foreign corporations for which one U.S. corporation satisfies the requirements for control. This is because complete Form 5471 filings are required only for foreign corporations controlled by a single U.S. shareholder (i.e., those shareholders meeting the definition of a "Category of Filer 4" taxpayer per the Form 5471 instructions). Partial filing requirements exist for noncontrolled foreign corporations and for controlled foreign corporations which are not controlled by a single U.S. shareholder. For more details, refer to the instructions for Form 5471.

[4] The prevention of tax avoidance was a primary tax policy objective that led to the enactment of the Subpart F provisions of the Internal Revenue Code. Other policy considerations also contributed to the enactment of Subpart F. For more detailed information on the history of Subpart F, see The Deferral of Income Earned Through U.S. Controlled Foreign Corporations: A Policy Study, Office of Tax Policy, Department of the Treasury, December 2000.

[5] See "Subpart F income" in the Explanation of Selected Terms section of this article.

Figure A

U.S. Corporations and Their Controlled Foreign Corporations: Number, End-of-Year Total Assets, Total Receipts, and Current Earnings and Profits (Less Deficit) Before Income Taxes, by Industrial Sector of Controlled Foreign Corporation, Tax Year 2010



[1] Includes "Nature of business not allocable," not shown separately.

NOTE: Detail may not add to 100 percent because of rounding. For more details, see Table 1.

Source: IRS, Statistics of Income Division, Controlled Foreign Corporations, April 2014.

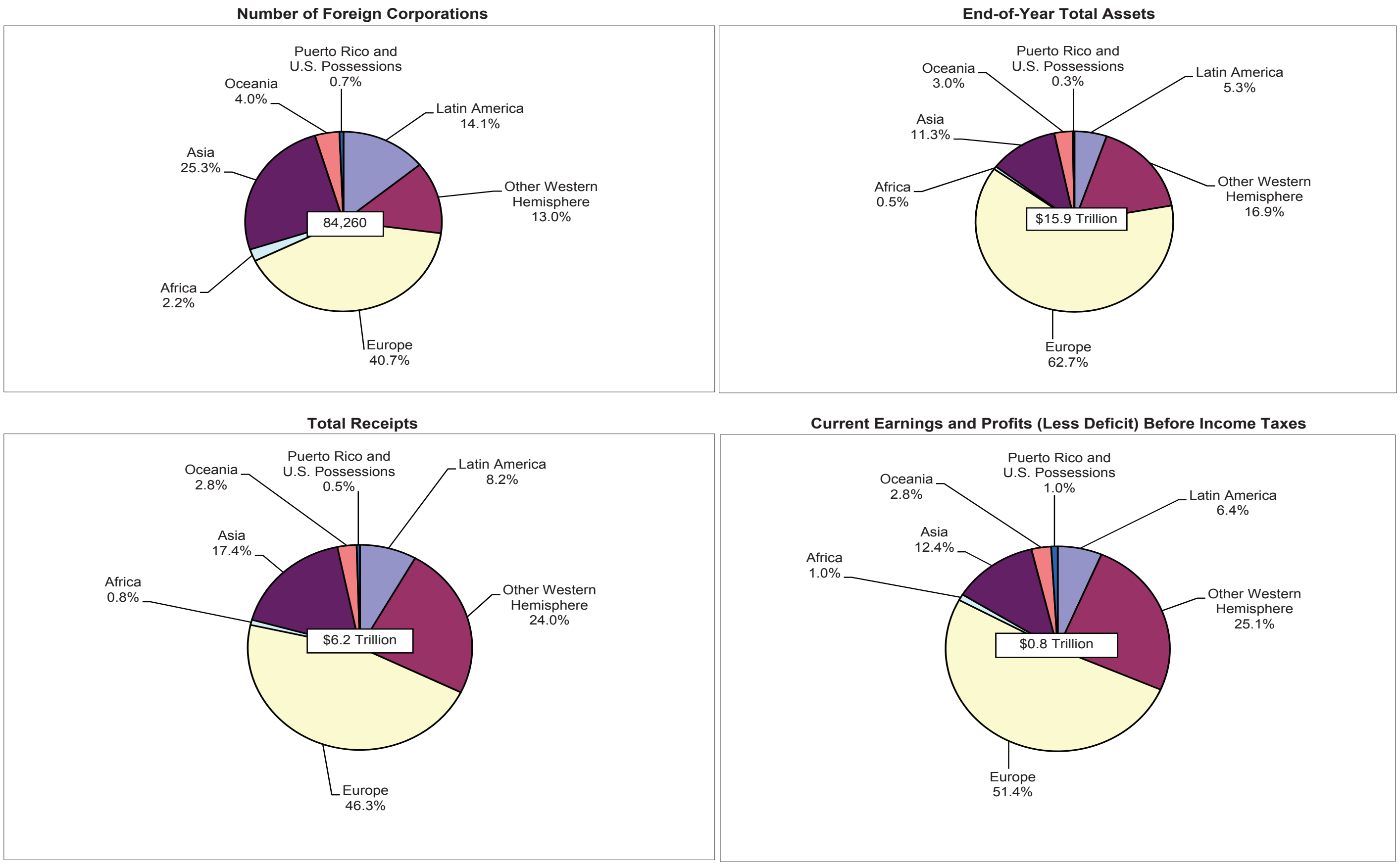
before income taxes for all CFCs in the goods production sector. Chemical manufacturers alone generated 25.2 percent of the E&P (less deficit) before income taxes and 25.6 percent of the foreign income taxes reported by all goods producers. Within the goods production sector, paper manufacturers and petroleum and coal products manufacturers experienced significant increases in profitability. Paper manufacturers reported $3.9 billion in E&P (less deficit) before income taxes for Tax Year 2010, after having reported only $824.7 million in earnings for Tax Year 2008. Petroleum and coal product manufacturers reported an increase in E&P (less deficit) before income taxes from $1.1 billion for Tax Year 2008 to $7.5 billion for Tax Year 2010.

For Tax Year 2010, CFCs engaged in finance, insurance, real estate, and rental and leasing held 36.8 percent of all assets while generating only 8.4 percent of the total receipts and 10.3 percent of the E&P (less deficit) before income taxes reported by all CFCs. Although the number of CFCs in this sector decreased by 2.3 percent and end-of-year assets decreased by13.2 percent from 2008, E&P (less deficit) before income taxes increased by 51.2 percent, from Tax Year 2008. More than $5.0 trillion, or more than 86.0 percent of the assets reported for this industrial sector were attributable to finance corporations, which also generated 70.7 percent of total receipts and 80.0 percent of the E&P (less deficit) before income taxes. Insurance CFCs reported more than $0.6 trillion in end-of-year assets or 11.0 percent of the total assets for the finance, insurance, real estate and rental and leasing sector and over $0.1 trillion in receipts, representing 23.2 percent of the total receipts for this sector.

There were more CFCs in the services sector than any other industrial sector. For Tax Year 2010, some 34.1 percent of all CFCs were classified as service corporations. Service providers

Figure B

U.S. Corporations and Their Controlled Foreign Corporations: Number, End-of-Year Assets, Total Receipts, and Current Earnings and Profits (Less Deficit) Before Income Taxes, by Geographic Region of Incorporation of Controlled Foreign Corporation, Tax Year 2010



NOTE: Detail may not add to 100 percent because of rounding. For me details, see Table 2.
Source: IRS, Statistics of Income Division, Controlled Foreign Corporations, April 2014.

reported $5.7 trillion in end-of-year assets and nearly $1.7 trillion in receipts. However, excluding management and holding companies, CFCs classified in the services sector reported only $0.8 trillion in end-of-year assets and $0.5 trillion in receipts.

Every major industrial sector, except for raw materials and energy production, showed increases in E&P (less deficit) before income taxes between Tax Year 2008 and Tax Year 2010. CFCs engaged in finance, insurance, real estate, and rental and leasing reported a 51.2-percent increase, the largest of any major industrial sector. Services CFCs reported an increase of 26.1 percent while also reporting a 27.9-percent increase in total receipts. CFCs in the goods production sector reported an increase of 39.6 percent in E&P (less deficit) before income taxes. The raw materials and energy production sector was the only major industrial sector to show a decrease in E&P (less deficit) before income taxes from Tax Year 2008 to Tax Year 2010. The 16.6-percent decrease was reported despite a 7.6-percent increase in total receipts for the sector.

Assets, Receipts, and Earnings and Profits for CFCs by Geographic Distribution

The geographic distribution of CFCs by major region of incorporation shows that for Tax Year 2010, Europe remained the most significant region for CFC activity (Figure B). Europe alone accounted for 62.7 percent of end-of-year assets, 46.3 percent of total receipts, and 51.4 percent of E&P (less deficit) before income taxes for all CFCs. European CFCs paid 39.1 percent of the $114.4 billion of foreign income taxes reported by all CFCs for Tax Year 2010. Within Europe, most CFC activity was concentrated in European Union (EU) countries. More than 90 percent of European CFCs were incorporated in EU countries. These CFCs reported 92.9 percent of ending assets, 85.9 percent of total receipts, and 86.4 percent of E&P (less deficit) before income taxes for all European CFCs. More than 43.5 percent of European CFCs not incorporated in EU countries were incorporated in Switzerland. These Swiss CFCs accounted for

78.6 percent of ending assets, 83.6 percent of receipts, and 79.0 percent of E&P (less deficit) before income taxes for non-EU European CFCs.

Other Western Hemisphere countries (which include Canada and Caribbean countries but exclude Central and South America) and Asia also were significant regions of CFC activity. CFCs conducting business in Other Western Hemisphere countries held 16.9 percent of all CFC end-of-year assets and reported 24.0 percent of all CFC receipts. These CFCs reported 25.1 percent of the E&P (less deficit) before income taxes and paid 25.0 percent of the foreign income taxes paid by all CFCs. Within the Other Western Hemisphere region, Canada was home to the largest amount of CFC activity. Canadian CFCs generated 48.0 percent of the total receipts for this region. Canadian CFCs accounted for 24.5 percent of the E&P (less deficit) before income taxes and 33.8 percent of the foreign income taxes for CFCs in this region. With 6,971 CFCs, Canada had more CFCs than any other country except the United Kingdom (8,123).

CFCs in Asia reported 11.3 percent of the ending assets, 17.4 percent of the total receipts, and 12.4 percent of the E&P (less deficit) before income taxes for all CFCs. More activity was reported for CFCs in Japan than any other Asian country. Japanese CFCs accounted for 41.1 percent of the ending assets, 25.0 percent of the total receipts, and 19.6 percent of the E&P (less deficit) before income taxes reported by all Asian CFCs. For Tax Year 2010, there were more CFCs incorporated in China (5,565) than any other Asian country, including Japan (2,570). In fact, for Tax Year 2010, only two countries had more CFCs than China.[6] For Tax Year 2010, Japan ($268.7 billion) was the only Asian country that accounted for more CFC receipts than China ($191.8 billion).

The two geographic groupings with the smallest CFC representation were Africa and U.S. Possessions (including Puerto Rico). Only 2.8 percent of all CFCs were incorporated in these two regions. Collectively, they accounted for 0.8 percent of the end-of-year assets, 1.3 percent of total receipts, and 1.9 percent of E&P (less deficit) before income taxes for all CFCs. Within Africa, most CFC activity was concentrated in five countries. Egypt, Liberia, Mauritius, Nigeria, and South Africa collectively accounted for 88.3 percent of ending assets, 82.9 percent of the total receipts, and 90.7 percent of the E&P (less deficit) before income taxes for all African CFCs.[7] Nearly 39 percent of the African CFCs were incorporated in South Africa alone and these South African CFCs reported 23.0 percent of the ending assets, 47.7 percent of the total receipts, and 23.5 percent of the E&P (less deficit) before income taxes reported by all African CFCs.[8]

Most CFC activity in the U.S. Possessions is attributable to Puerto Rico. Puerto Rican CFCs held 95.4 percent of ending assets and generated 94.1 percent of the total receipts reported by all CFCs operating in the U.S. Possessions.[9] For Tax Year 2010, the average tax rate for CFCs incorporated in Puerto Rico and U.S. Possessions was 5.4 percent compared to the average tax rate of 14.0 percent for all other CFCs.[10] CFCs incorporated in African countries had the highest average tax rate of any region at 30.9 percent.

Between Tax Year 2008 and Tax Year 2010, the number of CFCs increased by less than 1 percent. However, CFC assets increased by 9.3 percent and E&P (less deficit) before income taxes increased by 24.2 percent. Despite a 4.3-percent decrease in the number of European CFCs between Tax Year 2008 and Tax Year 2010, end-of-year assets increased by 9.7 percent and E&P (less deficit) before taxes increased by 29.1 percent. Asia experienced the largest increase of any major geographic region in the number of CFCs between Tax Year 2008 and Tax Year 2010 (8.5 percent). This increase is largely attributable to the 22.4-percent increase in Chinese CFCs. Chinese CFCs reported a 50.6-percent increase in ending assets and a 53.0-percent increase in receipts. Despite this growth, Chinese CFCs reported only 25.8 percent as much in ending assets and 71.4 percent as much in receipts for Tax Year 2010 as were reported by Japanese CFCs.

CFC Profitability

For purposes of this article, two measures are used to assess pretax profitability for CFCs: rate of return on assets and profit margin. Rate of return on assets is defined as current E&P (less deficit) before income taxes divided by end-of-year assets. Profit margin is defined as current E&P (less deficit) before income taxes divided by total receipts.

For Tax Year 2010, profitability measures varied among the six major industrial sectors. CFCs engaged in raw materials and energy production reported both the highest rate of return (14.2 percent) and the highest profit margin (25.2 percent). The high profitability of this sector is attributable to CFCs in the mining, quarrying, and oil and gas extraction subsector. The return on assets for this subsector was 15.4 percent and the profit margin was 27.6 percent. CFCs in the utilities subsector reported an 8.8-percent return on assets and an 17.4-percent profit margin, while CFCs engaged in agriculture, forestry, and fishing reported only a 5.2-percent rate of return on assets and a 6.1-percent profit margin.

The next highest return on assets were for CFCs engaged in the goods production sector (9.4 percent) and in the distribution and transportation of goods sector (7.2 percent). These CFCs, however, also reported the lowest profit margins of any sector (10.1 percent in the goods production sector, and 6.2 percent in the distribution and transportation of goods sector). CFCs in

[6] The countries with the most CFCs are: United Kingdom (8,123), Canada (6,971), China (5,565), Mexico (4,823), Germany (3,856), Netherlands (3,519), France (3,221), Australia (2,678), Japan (2,570), and Hong Kong (2,492).

[7] Based on unpublished data.

[8] Based on unpublished data.

[9] Based on unpublished data.

[10] See "Average tax rate" in the Explanation of Selected Terms at the end of this article.

the finance, insurance, real estate, and rental and leasing sector reported the lowest return on assets (1.4 percent). CFCs in the services sector reported the second highest profit margin (20.0 percent).

Distribution of Earnings and Profits by CFCs

For Tax Year 2010, CFCs distributed $452.9 billion of E&P to U.S. and foreign shareholders. Nearly 73 percent of distributions of E&P were from not previously taxed E&P ($328.9 billion), while the remainder was distributed from previously taxed E&P ($123.9 billion). More than 26 percent of CFC distributions (or $118.3 billion) represented taxable dividends to the U.S. parent corporation.

The majority of distributions of E&P are attributed to CFCs doing business in the goods production and services sectors. These two industrial sectors distributed $329.3 billion of E&P or 72.7 percent of total distributions. Of this total, $237.2 billion were from not previously taxed E&P, with the remaining $92.1 billion coming from previously taxed E&P. Almost 24 percent of the distributions by goods producers were attributable to chemical manufacturers. Manufacturers of computers and electronic products and manufacturers of beverage and tobacco products accounted for an additional 16.3 percent and 9.9 percent of all distributions by CFCs in the goods production sector. CFCs classified as management companies reported 89.8 percent of the distributions to shareholders reported by all services CFCs. CFCs engaged in oil and gas extraction accounted for 54.7 percent of all distributions from the raw materials and energy production sector.

European-based CFCs accounted for 48.0 percent ($217.3 billion) of all distributions of E&P. Nearly 64 percent of these distributions were from not previously taxed E&P ($138.9 billion), with the remainder distributed from previously taxed E&P ($78.4 billion). CFCs incorporated in European Union countries made 88.7 percent of all shareholder distributions by European CFCs. CFCs in the Other Western Hemisphere region distributed $139.3 billion of E&P in Tax Year 2010 or 30.8 percent of all distributions. Bermudian CFCs accounted for 60.8 percent of these distributions; CFCs in Canada accounted for 18.6 percent and the Cayman Islands accounted for 13.8 percent.

Figure C displays taxable payout ratios by industrial sector. The taxable payout ratio is defined as taxable dividends paid to a U.S. person by a CFC with positive current E&P net of current-year Subpart F income divided by positive current E&P net of current-year Subpart F income (see definitions of "U.S. person," "Current earnings and profits," and "Subpart F income" in the Explanation of Selected Terms at the end of this article). For Tax Year 2010, CFCs reported a taxable payout ratio of 10.3 percent. CFCs in the raw materials and energy production sector reported the largest taxable payout ratio (23.2 percent). The goods production sector reported the lowest payout ratio (6.1 percent).

Accumulated Earnings and Profits by Industrial Sector and Geographic Region

For Tax Year 2010, CFCs had nearly $2 trillion in end-of-year accumulated E&P. This is an increase of 22.9 percent over Tax Year 2008 end-of-year accumulated E&P.[11] Almost 88 percent of accumulated E&P was not previously taxed ($1.7 trillion) while the remainder was previously taxed E&P ($238.8 billion).[12]

CFCs doing business in the goods production and services sectors accounted for the majority of end-of-year accumulated E&P. These two industrial sectors held $1.3 trillion, or 64.6

Figure C
U.S. Corporations and Their Controlled Foreign Corporations: Number of Foreign Corporations with Positive Current Earnings and Profits Net of Current-Year Subpart F Income and Taxable Payout Ratios, by Industrial Sector of Controlled Foreign Corporation, Tax Year 2010

[Money amounts are in thousands of dollars]

Industrial sector of Controlled Foreign Corporation	Number of foreign corporations with positive current earnings and profits net of current-year Subpart F income	Positive current earnings and profits net of current year Subpart F income [1]	Taxable payout ratio (percentage)
	(1)	(2)	(3)
All industries [2]	**46,377**	**669,983,129,444**	**10.3**
Raw materials and energy production	1,035	47,487,128,715	23.2
Goods production	12,568	184,474,256,712	6.1
Distribution and transportation of goods	10,330	67,832,080,860	7.5
Information	2,722	24,994,060,204	6.4
Finance, insurance, real estate, and rental and leasing	4,655	77,237,796,415	7.9
Services	15,001	267,926,287,066	12.7

[1] Amounts are multiplied by the total percentage of voting stock owned by the Form 5471 filer at the end of its annual accounting period.

[2] Includes "Nature of business not allocable," not shown separately and is therefore larger than the sum of the detail.

Source: IRS, Statistics of Income, Controlled Foreign Corporations, April 2014.

[11] Based on unpublished data.

[12] See "Previously taxed earnings and profits" in the Explanation of Selected Terms section of this article.

percent, of the total end-of-year accumulated E&P, $1.1 trillion, or 65.6 percent, of not previously taxed E&P, and $137.7 billion, or 57.6 percent, of the previously taxed E&P reported by all CFCs. Almost 30 percent of the total end-of-year accumulated E&P of goods producers was attributable to chemical manufacturers. These CFCs held 30.7 percent ($162.4 billion) of not previously taxed E&P reported by all goods producers.

Computer and electronic product manufacturers accounted for an additional 23.5 percent of the total end-of-year accumulated E&P for goods producers. CFCs classified as management companies reported 76.8 percent ($531.4 billion) of total end-of-year accumulated E&P and 75.4 percent ($447.7 billion) of the not previously taxed E&P reported by all services CFCs.

European-based CFCs accounted for 54.4 percent ($1.1 trillion) of total end-of-year accumulated E&P and 53.0 percent ($907.3 billion) of not previously taxed E&P. CFCs incorporated in European Union countries reported 81.2 percent of total end-of-year accumulated E&P and 80.2 percent of the not previously taxed E&P reported by all European CFCs. Switzerland reported the majority of the remaining European total end-of-year accumulated E&P ($180.4 billion). CFCs in the Other Western Hemisphere region reported $449.7 billion or 23.0 percent of total end-of-year accumulated E&P. Bermuda accounted for 42.3 percent of this total accumulated E&P; CFCs in Canada accounted for 28.2 percent and the Cayman Islands accounted for 18.8 percent.

Data Sources and Limitations

The statistics presented in this article are based on information collected from corporate income tax returns (Form(s) 1120) with accounting periods ending July 2010 through June 2011 and their attached Form(s) 5471, *Information Return of U.S. Persons With Respect to Certain Foreign Corporations.* A U.S. corporation is required by Internal Revenue Service regulations to submit a Form 5471 for any Controlled Foreign Corporation (CFC) with an accounting period ending with or within the U.S. parent's accounting period. Thus, the accounting periods for Tax Year 2010 CFCs may have ended as early as July 2009 and as late as June 2011. However, most CFC activity occurred in Calendar Year 2010. These statistics report data for active foreign corporations controlled by U.S. corporations.[13]

Coefficient of variation (CV) tables are not provided because these data are not subject to significant sampling error. For example, CFCs sampled at a 100-percent rate accounted for 96.4 percent of the sampled population and 87.0 percent of the estimated population. Furthermore, CFCs sampled at a 100-percent rate accounted for 99.6 percent of the total ending assets for all CFCs.[14] However, these data may be subject to nonsampling error.

Several limitations apply when making comparisons to prior-year statistics. First, the data in this article are based on a sample of U.S. corporations. For Tax Year 2010, this sample generally includes all CFCs controlled by U.S. corporations with $50 million or more in total assets or $10 million or more in "proceeds" and all CFCs controlled by U.S. corporations with less than $50 million in total assets in the SOI corporate sample.[15] The sample for the Tax Year 2010 CFC statistics is far more inclusive than studies conducted before Tax Year 2004, which included only the 7,500 largest CFCs controlled by U.S. corporations with $500 million or more in total assets.

Second, statistics previously published by Statistics of Income for tax years before 1986 were for all CFCs controlled by U.S. corporations with total assets of $250 million or more, and were not limited to the 7,500 largest active CFCs controlled by U.S. corporations with total assets of $500 million or more. Therefore, the statistics for these years include smaller and also inactive CFCs. For this reason, comparisons between statistics on the largest CFCs and statistics for years before 1986 should be made with caution.

Finally, fluctuations in exchange rates can have significant effects on the reported statistics. Financial statistics that are translated using current (as opposed to historical) rates of exchange can be distorted by large exchange rate fluctuations. For example, the weakening of the U.S. dollar against many currencies from Tax Year 2002 to Tax Year 2004 certainly contributed to the large increases in some statistics over that period. The U.S. dollar generally fluctuated far less against most major currencies between Tax Year 2008 and Tax Year 2010 than it had between Tax Year 2002 and Tax Year 2004.

Caution should also be used when comparing data by industrial groupings. Beginning with Tax Year 1998, CFCs were classified under the North American Industry Classification System (NAICS), which differs from the Standard Industrial Classification (SIC) system used before Tax Year 1998. While most industries were not affected by the implementation of NAICS, the groupings of some economic activities were changed. The most significant change was the movement of the management of companies and enterprises sector from finance, insurance, and real estate under the SIC system to the services sector under NAICS. Furthermore, CFCs were classified by industry based on their principal business activity as reported on Form 5471. However, assets, receipts, and profits may have also been related to secondary business activities. It is not possible to measure the extent of these secondary business activities due to these activities not being detailed on Form 5471.

The data reported on Form 5471 generally represent the financial information of each foreign corporation and not the amounts attributable to the U.S. shareholder filing the Form 5471. Data reported on Form 5471, Schedule I, are the exception to this

[13] See definition of "Active versus inactive Controlled Foreign Corporations" in the Explanation of Selected Terms section.
[14] Based on unpublished data.
[15] See Statistics of Income—2010, Corporation Income Tax Returns, for more complete description of the SOI Corporate sample. The SOI Corporate sample is the basis for the SOI Controlled Foreign Corporation sample. In other words, the Controlled Foreign Corporation sample includes every Form 5471 filed by each corporation in the SOI Corporate sample.

general rule. The Subpart F income and dividends received reported on the Schedule I represent the amount of foreign dividends taxable to the U.S. shareholder filing the Form 5471.

U.S. shareholders do not prepare consolidated Form 5471 filings as they typically do for Forms 1120 that are filed for domestic corporations. U.S. shareholders file a separate Form 5471 for each foreign corporation for which this form is required. As a result, the Form 5471 data presented in this article contain inherent double counting to the extent that intercompany transactions occur.

Explanation of Selected Terms

Active versus inactive Controlled Foreign Corporations—In general, a foreign corporation was considered "active" if earnings and profits, income taxes, receipts, expenses, distributions of E&P, or certain transactions between the foreign corporation and its subsidiaries or majority shareholder were reported on Form 5471, *Information Return of U.S. Persons with Respect to Certain Foreign Corporations*. The filing of Form 5471 was required even if a CFC was dormant or inactive for Tax Year 2010. Only data from active CFCs are included in the statistics in this article, unless otherwise noted.

Average tax rate—For purposes of this article, the average tax rate is defined as income tax divided by earnings and profits (less deficit) before income taxes.

Controlled Foreign Corporation—Section 957 of the Internal Revenue Code defines a foreign corporation as being "controlled" if more than 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, or more than 50 percent of the value of all its outstanding stock, is owned (directly, indirectly, or constructively) by U.S. shareholders on any day during the foreign corporation's tax year. A U.S. shareholder for purposes of determining control is defined as a "U.S. person" [16] owning 10 percent or more of the foreign corporation's voting stock. For purposes of these statistics, a foreign corporation was "controlled" only if a single U.S. corporation satisfied the ownership requirements for an uninterrupted period of at least 30 days. These are the only foreign corporations for which complete Form 5471 filings were required. U.S. corporations may also control a CFC through a partnership where the U.S. corporation is the controlling partner. To the extent possible, these CFCs have also been included in these statistics.

Country of incorporation—The country of incorporation is the country under whose laws the CFC is legally created. The CFC's country of incorporation is not necessarily the principal place of business. For Tax Year 2010, there were 1,534 CFCs (1.8 percent) which reported a principal place of business that differed from the reported country of incorporation. Table 2 provides data by country of incorporation; data by principal place of business are not included in these statistics.

Current earnings and profits—"Current earnings and profits" represent the difference between total earnings and profits of the foreign corporation at the end of the current year (before reduction by dividends paid during the year) and the accumulated earnings and profits of the corporation at the beginning of the year. Although current earnings and profits typically are an after-tax measure of profits, they are shown in these statistics both before and after taxes. "Earnings and profits" is a tax concept referring to the economic capacity of a corporation to make a distribution to shareholders that is not a return on capital. The term "earnings and profits" is not specifically defined in the Internal Revenue Code.

In those instances where current earnings and profits were not reported for the foreign corporation, net income per books was used in place of missing earnings and profits.

Distributions out of earnings and profits—A distribution comes first from current earnings and profits and then from accumulated earnings and profits.

Income taxes—CFCs reported income, war profits, and excess profits taxes paid or accrued to any foreign country or U.S. Possession as income tax for their annual accounting periods.

OPEC countries—The member countries of the Organization of Petroleum Exporting Countries for Tax Year 2010 were: Algeria, Angola, Ecuador, Iran, Iraq, Kuwait, Libya, Nigeria, Qatar, Saudi Arabia, United Arab Emirates, and Venezuela. (Although OPEC countries are not discussed in the text, they are included in Table 2.)

Previously taxed earnings and profits—This includes any earnings and profit amounts that were subject to U.S. tax in the current year or in a prior year, but not distributed. Previously taxed earnings and profits include amounts related to Subpart F income (see definition below), earnings related to investments in certain U.S. property, previously excluded Subpart F income withdrawn from qualified investments, previously excluded export trade income withdrawn from investment in export trade assets, factoring income, and earnings invested in excess passive assets.

Subpart F income—Internal Revenue Code sections 951 and 952 stipulate specific cases in which earnings and profits are deemed to have been paid by a CFC to a U.S. shareholder. Such income is subject to U.S. tax whether or not it is repatriated to U.S. shareholders in the form of an actual dividend. Internal Revenue Code section 951 requires that U.S. shareholders include in their gross incomes certain undistributed profits of foreign corporations controlled by U.S. shareholders. Subpart F income from a CFC includes certain insurance income of U.S. risks, "foreign base company" income, international boycott participation income, bribes and other illegal payments to foreign government officials, and income from any country that the United States does not recognize or from which it has severed relations, or which repeatedly provides support for acts of international terrorism.

Total receipts—Total receipts equal business receipts (gross receipts from sales and operations) plus income from investment activity. In the statistics reported prior to 1990, "business

[16] See definition of "U.S. person" elsewhere in this section.

receipts" were used to describe the larger of "gross receipts from sales and operations" and "total income." The latter is a tax return concept used to describe the sum of business receipts less cost of sales and operations (i.e., gross profit), plus income (less loss) from investments.

U.S. person—A U.S. person can be a U.S. citizen or resident individual, a domestic partnership, a domestic corporation, or an estate or trust (other than a foreign estate or trust whose income from sources outside the United States is not includable in the beneficiaries' gross income).

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