

Consequences of continued use of the Water's Edge election



**Presentation by David Morse
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Coalition for a Prosperous America**



Coalition for a Prosperous America

About Coalition for a Prosperous America

CPA is the only national organization representing exclusively domestic producers across many sectors. We are a bipartisan coalition of farmers, ranchers, manufacturers, and labor organizations that make and grow things in the United States. Our members believe that America's strength and well being is based upon growing America's productive capacity and quality employment more than cheap consumption.

MISSION

The mission of the Coalition for a Prosperous America is to advocate the implementation of strategic trade, tax and growth policies so our members can prosper.

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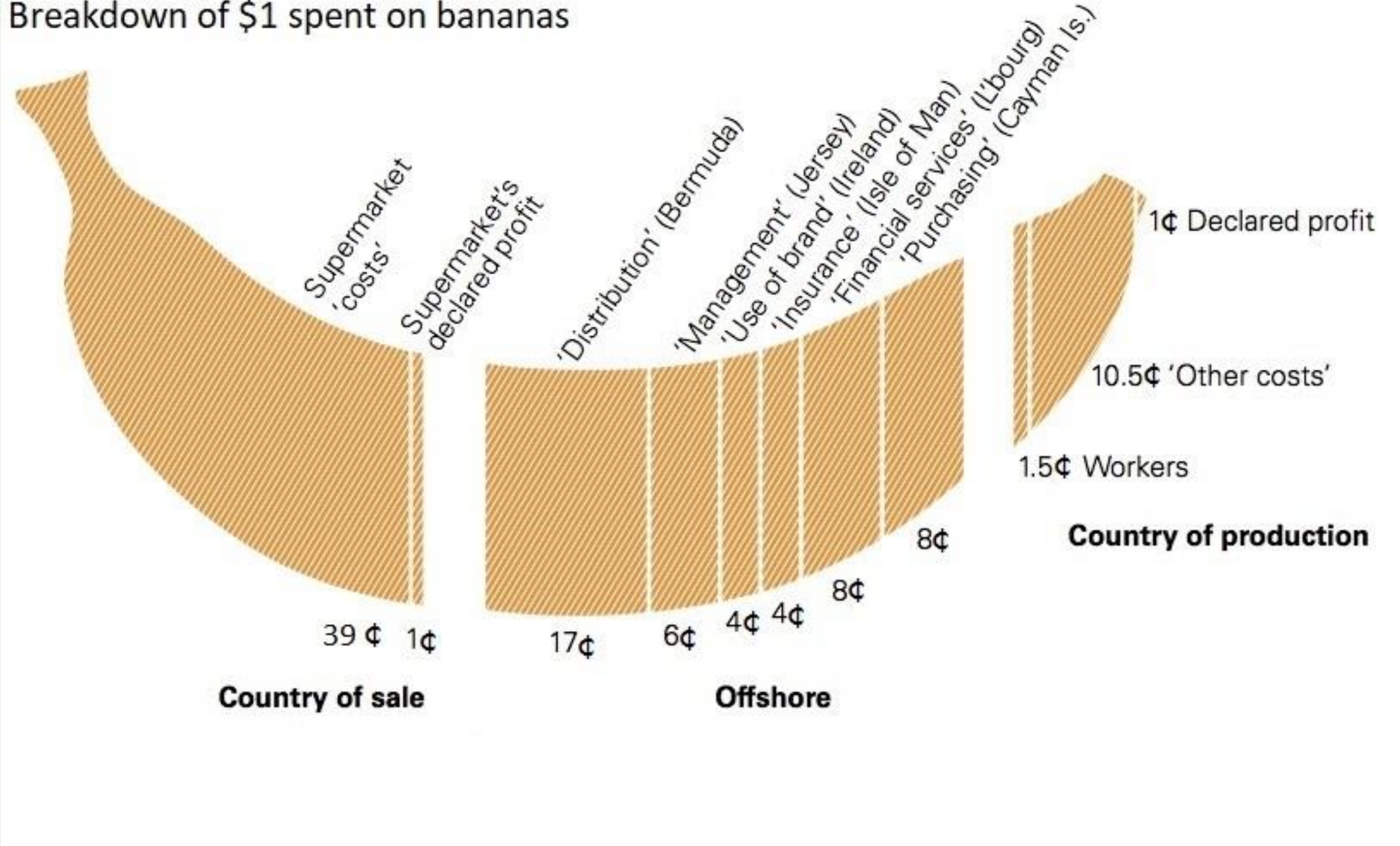
We fight against the trade cheaters and seek to bring back broadly shared prosperity.

”

Michael Stumo, CEO

Profit Shifting Technique

Breakdown of \$1 spent on bananas



Source (adaptation): Lawrence, Felicity and Griffiths, Ian. How Multinational Companies Avoid the Taxman – The Guardian

CBO scoring of Inflation Reduction Act on Depreciation



Congressional Budget Office
Cost Estimate

Revised August 5, 2022

Table 1.

Estimated Budgetary Effects of Title I, Committee on Finance, of H.R. 5376, the Inflation Reduction Act of 2022, as Amended in the Nature of a Substitute (ERN22335) and Posted on the Website of the Senate Majority Leader on July 27, 2022

www.democrats.senate.gov/imo/media/doc/inflation_reduction_act_of_2022.pdf

By Fiscal Year, Millions of Dollars

	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-2026	2022-2031
Increases or Decreases (-) in Revenues												
Subtitle A. Deficit Reduction												
Sec. 10101 Corporate Alternative Minimum Tax	0	52,618	44,000	29,738	26,464	27,191	29,697	32,160	34,463	36,808	152,820	313,138

Revised September 7, 2022

Estimated Budgetary Effects of Title I, Committee on Finance, of Public Law 117-169, to Provide for Reconciliation Pursuant to Title II of S. Con. Res. 14

By Fiscal Year, Millions of Dollars

	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-2026	2022-2031
Increases or Decreases (-) in Revenues												
Subtitle A. Deficit Reduction												
Part 1. Corporate Tax Reform												
Sec. 10101 Corporate Alternative Minimum Tax	0	34,679	34,258	22,039	17,702	18,699	20,798	22,756	24,658	26,659	108,678	222,248

The CBO determined that Corporate tax benefits from Depreciation over 10 years cost the U.S. Federal Government \$90.890 Billion dollars over a ten-year forecast.

Tax Haven Blacklists / Digital Ad Taxes

States with Tax Haven Blacklist:

- Montana
- Oregon (Repealed)

States with Digital Advertising Taxes:

- Maryland (Struck down in court)

Original states with Worldwide Combined Reporting

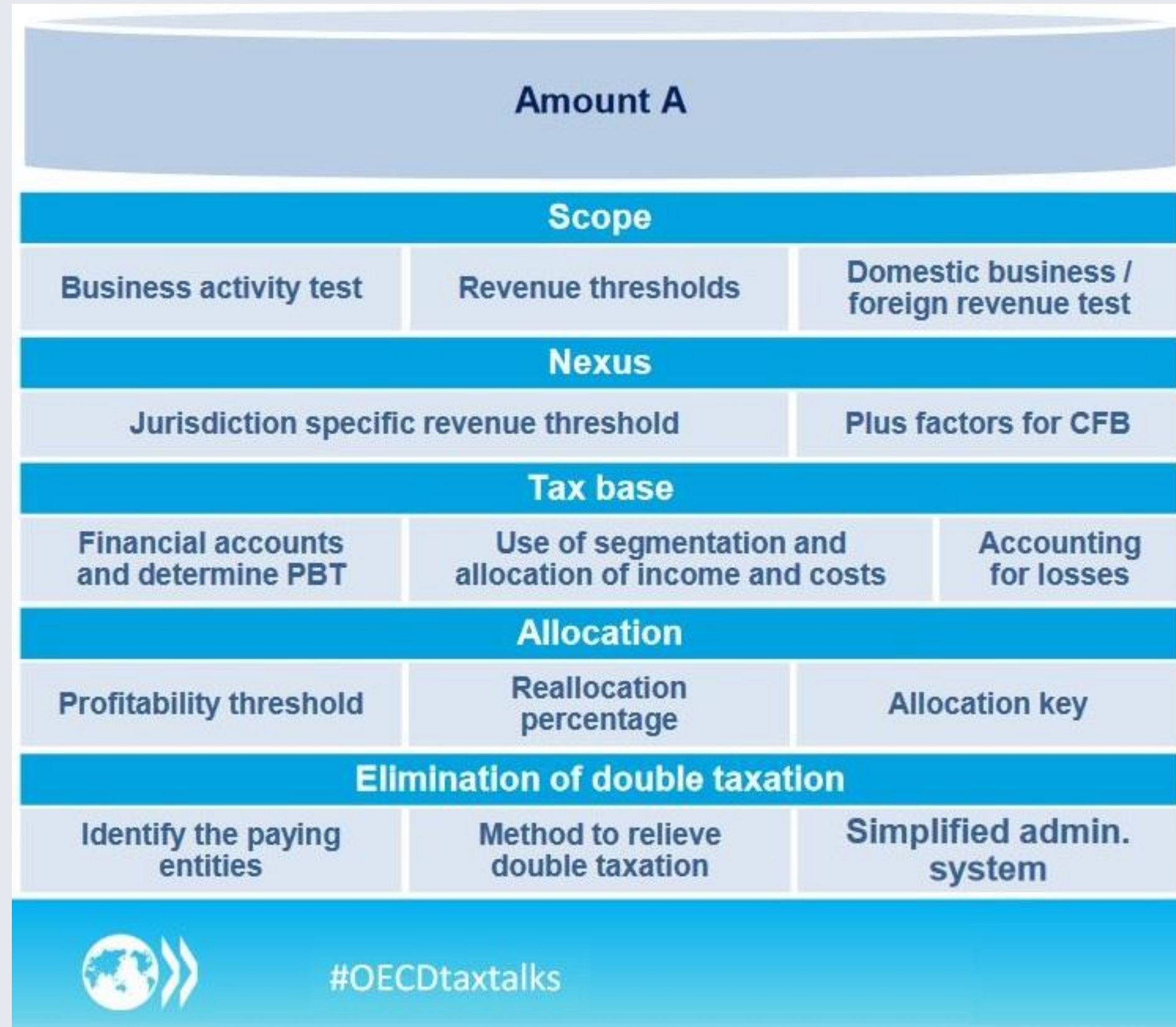
- California
- Oregon
- Alaska
- Idaho
- Colorado
- Indiana
- Florida
- Massachusetts
- Montana
- Utah
- New Hampshire
- North Dakota

Indian Tax Administration Recommendations

Fractional Apportionment

Profits should be allocated on a three-factor method based on equal weight accorded to sales, manpower, and assets. Significant economic presence could allow substitutions such as user contribution for either assets or employees.

OECD limited apportionment solution



MTC Water's Edge election sequestration

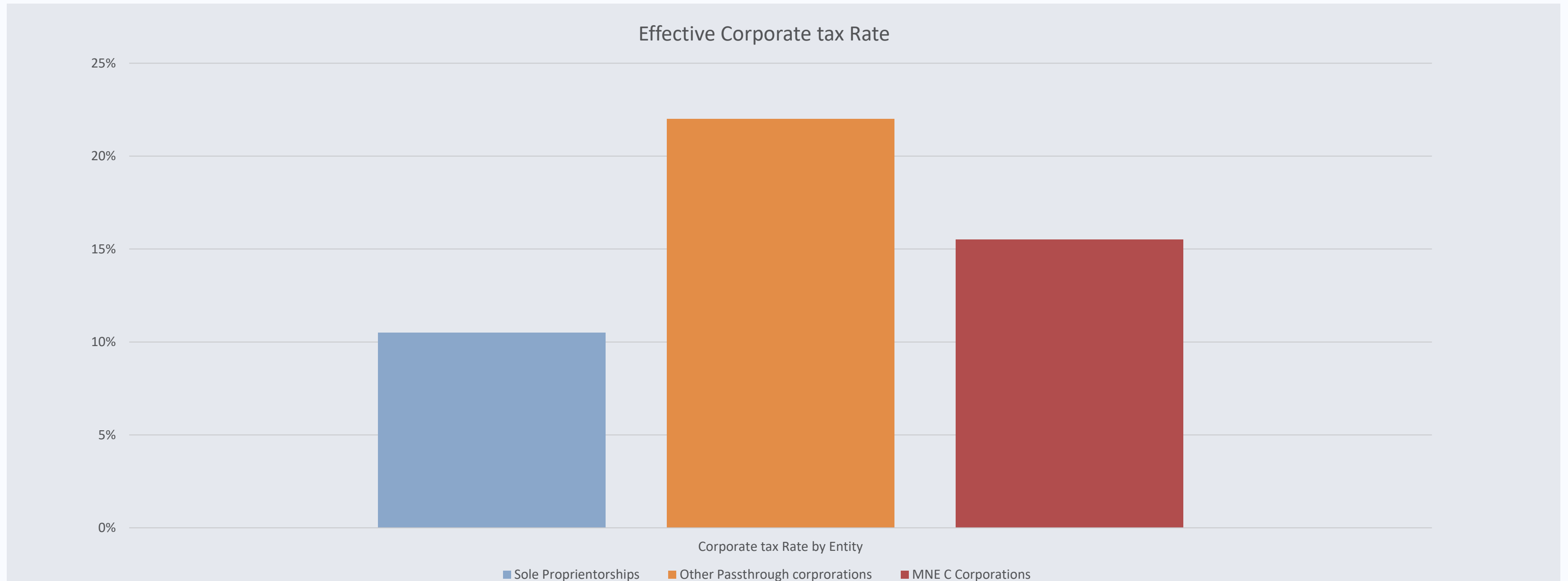
Section 5. Water's-edge election; initiation and withdrawal.

A. Water's-edge election.

Taxpayer members of a unitary group that meet the requirements of Section 5.B. may elect to determine each of their apportioned shares of the net business income or loss of the combined group pursuant to a water's-edge election. Under such election, taxpayer members shall take into account all or a portion of the income and apportionment factors of only the following members otherwise included in the combined group pursuant to Section 2, as described below:

- i.** the entire income and apportionment factors of any member incorporated in the United States or formed under the laws of any state, the District of Columbia, or any territory or possession of the United States;
- ii.** the entire income and apportionment factors of any member, regardless of the place incorporated or formed, if the average of its property, payroll, and sales factors within the United States is 20 percent or more;
- iii.** the entire income and apportionment factors of any member which is a domestic international sales corporation as described in Internal Revenue Code Sections 991 to 994, inclusive; a foreign sales corporation as described in Internal Revenue Code Sections 921 to 927, inclusive; or any member which is an export trade corporation, as described in Internal Revenue Code Sections 970 to 971, inclusive;
- iv.** any member not described in [Section 5.A.i.] to [Section 5.A.iii.], inclusive, shall include the portion of its income derived from or attributable to sources within the United States, as determined under the Internal Revenue Code without regard to federal treaties, and its apportionment factors related thereto;
- v.** any member that is a "controlled foreign corporation," as defined in Internal Revenue Code Section 957, to the extent of the income of that member that is defined in Section 952 of Subpart F of the Internal Revenue Code ("Subpart F income") not excluding lower-tier subsidiaries' distributions of such income which were previously taxed, determined without regard to federal treaties, and the apportionment factors related to that income; any item of income received by a controlled foreign corporation shall be excluded if such income was subject to an effective rate of income tax imposed by a foreign country greater than 90 percent of the maximum rate of tax specified in Internal Revenue Code Section 11;
- vi.** any member that earns more than 20 percent of its income, directly or indirectly, from intangible property or service related activities that are deductible against the business income of other members of the combined group, to the extent of that income and the apportionment factors related thereto; and
- vii.** the entire income and apportionment factors of any member that is doing business in a tax haven, where "doing business in a tax haven" is defined as being engaged in activity sufficient for that tax haven jurisdiction to impose a tax under United States constitutional standards. If the member's business activity within a tax haven is entirely outside the scope of the laws, provisions and practices that cause the jurisdiction to meet the criteria established in Section 1.I., the activity of the member shall be treated as not having been conducted in a tax haven.

Effective Corporate Tax Rate (Estimated Post-Inflation Reduction Act)

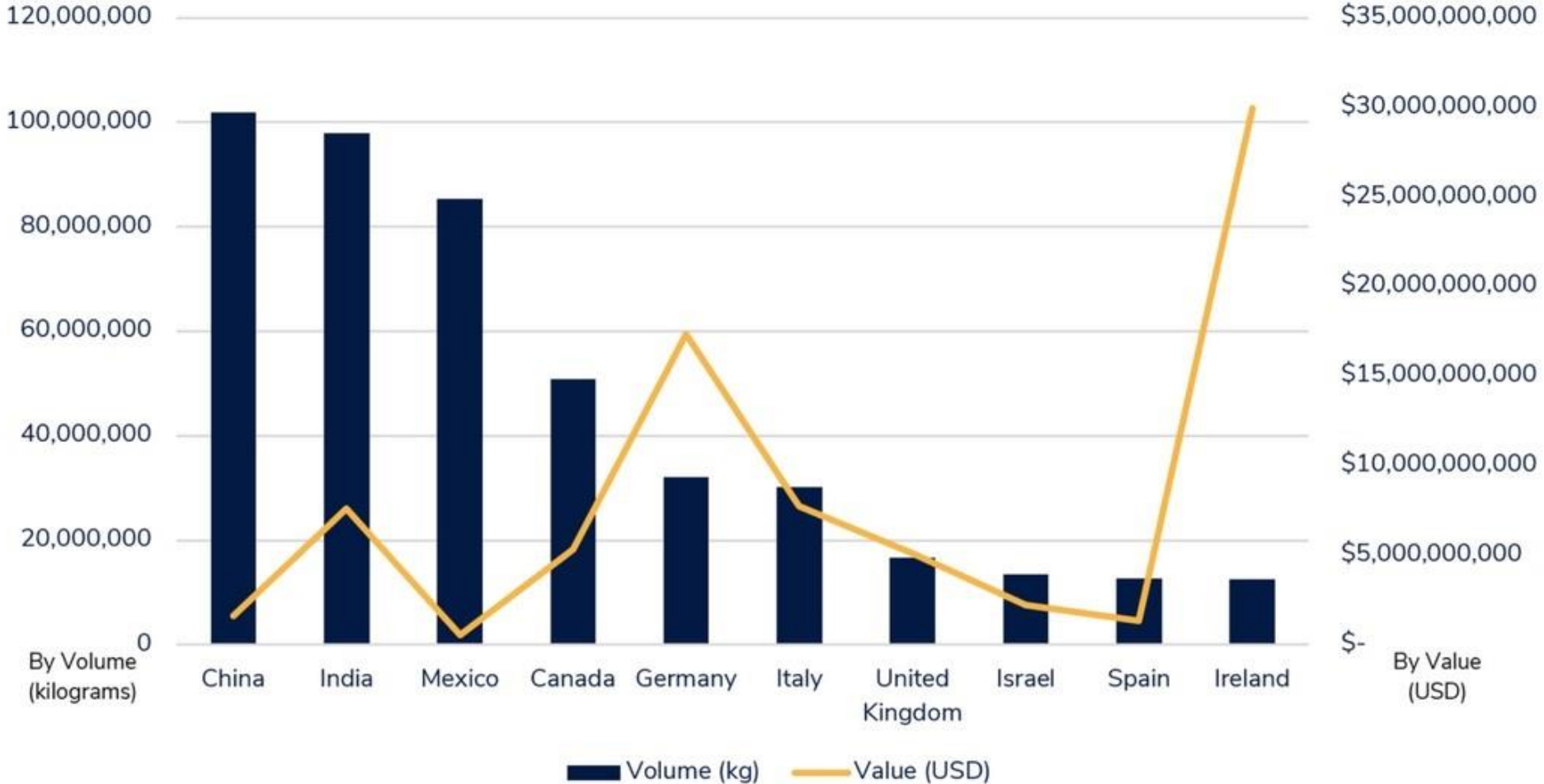


Source (CPA Estimated): 2013 Quantria Study Entity Choice and Effective tax Rates, applied TCJA changes, applied recent IRA changes.

Pharma Profit Divergence



Top 10 U.S. Sources of Pharmaceutical Imports by Volume vs. Value of Those Imports (2019)



Data Notes: U.S. pharmaceutical import data sourced from the U.S. International Trade Commission. Pharmaceutical drugs are defined as HS 30.