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Blame Greedy Government For Companies Fleeing U.S. Tax Rates

By Alfredo Ortiz

The corporate tax inversion saga goes on. There have been 13 episodes of them over the last 16 months, the biggest of which was pharmaceutical giant Pfizer merging with Irish drug firm Allergan. Its relocation to Ireland will save the company billions in taxes, allowing it to better serve its customers, shareholders and employees.

Over the past 10 years, more than 50 U.S. companies have pulled a similar expatriation move to save money on taxes, put themselves in a better competitive position and defend themselves from possible takeover attempts. More will surely follow suit.

Those who criticize these companies as "corporate deserters" or "unpatriotic" should look closer to home to grasp the real reason why inversions are occurring. More than 65 percent of America's Fortune 500 companies are incorporated in Delaware even though an overwhelming majority are not operationally based there. There are more than 1.1 million corporations currently operating in Delaware, a state with only about about 935,000 residents. In 2014, almost 90 percent of U.S.-based Initial Public Offerings chose Delaware as their home.

This isn't mere coincidence. Delaware has made it a legislative priority to update the state's corporate incorporation laws and maintain low corporate tax rates. The Delaware General Corporation Law, for example, is among the most flexible pieces of legislation for business creation in the country. And Delaware collects no out-of-state corporate taxes – business incorporation fees make up the state's second largest source of revenue, so it's easy to understand why Delaware places a premium on fostering a business-friendly environment.

Yet business leaders aren't faulted for incorporating their businesses in Delaware instead of U.S. states with burdensome regulations and high corporate tax rates. For that matter, retirees aren't faulted for moving to Florida to take advantage of its (tax) climate. But when these same motivations cause companies to go overseas, many are blinded to the very obvious reasons why they do so.

Other states are now following in Delaware's footsteps. In 2014, Texas lured Toyota to move its North American headquarters from California to Plano with the Lone Star State's favorable tax climate. In 2015, Mercedes-Benz USA pulled off a similar move from New Jersey to Georgia due to the Peach State's lower tax rates. And just last month, Massachusetts saw General Electric move its corporate headquarters from Connecticut to Boston to take advantage of more business-friendly regulations.

State policymakers seem to be getting the memo, but the federal government is not. America's effective corporate tax rate hovers around 35 percent – the highest of all developed countries – while Ireland is embracing companies like Johnson Controls with a flat 12.5 percent rate. And U.S.-headquartered companies that do business overseas face double taxation, whereby they are taxed on their profits abroad and then again in the United States. This puts them at an unfair disadvantage with their foreign competitors who can invest their global profits in the U.S. without paying America's taxes first.

This has prompted American companies to stash roughly $2.1 trillion overseas to avoid a double tax bill – which means this money isn't being invested at home.

Washington policymakers should look to Delaware's General Corporation Law as a pro-business model that could incentivize companies to stay (and come) to the U.S. Forcing higher taxes and extra mandates on companies trying to compete in today's economy is anything but smart government policy – and it allows Ireland to play the role of Delaware in the global market.

To reverse this inversion trend, American corporate tax rates must be brought in line with international norms and double taxation must end. In other words, rather than reacting with their hearts, American policymakers must address the inversion problem with their heads.

America has long prided itself as the home of free enterprise. But the government's policies are holding the business community hostage – and overseas.

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