TAXING THE WORLD

QUICK STATS

- **CONFERENCE:** Regulation (sometimes known as taxes)
- **TEAM:** Department of the Treasury
- **FUMBLE:** Highest corporate tax rate and an uncompetitive tax system
- **HOW TO RECOVER THE BALL:** Reduce the corporate tax rate and transition toward a territorial tax system

The broken American corporate tax system is driving businesses and jobs out of the country in droves. In fact the U.S. corporate tax system has become so uncompetitive with the rest of the world that Treasury has issued regulations to attempt to keep US corporations here against their will, essentially holding them hostage. This is a consequence of Congress' inability to take up and pass a long-overdue overhaul of the tax code.

Currently the U.S. has the highest corporate tax rate in the developed world.[391] With a statutory rate of 39 percent (combined federal and state), the U.S. is ten percent above the Organization for Economic Co-Operation and Development (OECD) average.[392] To make matters worse, the U.S. is one of the few countries, and the only one in the G-7, to deploy a worldwide system.[393] There are two ways that countries tax corporate income earned out of the country: worldwide and territorial. In a worldwide tax system, any income earned overseas is still subject to taxes under the home countries' corporate tax code (most, including the U.S., allow the deferral of income earned abroad until it is returned home). A territorial system only taxes income earned domestically at the corporate rate while any income earned overseas is taxed at the rate of the country in which it is earned.

In recent years the combination of the high tax rate and punitive worldwide tax system has sent a string of U.S. companies fleeing for safer waters. Once a wonky term reserved for corporate tax attorneys, lately the word *inversion* has become a regular part of our country's vernacular. While the process and dynamics are complex, put simply, an inversion occurs when a U.S. company merges with an overseas company and reincorporates in that foreign country to take advantage of a better tax system. To put it even more simply, the uncompetitive American tax code forces companies to evacuate the U.S., taking jobs and taxable revenues with them. The tax code has turned many American corporations into sitting ducks waiting to be purchased by foreign competitors.

An analysis of the roughly $24.5 trillion in cross-border mergers and acquisition transactions over the last decade determined that if the U.S. had a 25-percent tax rate, "US companies would have acquired $590 billion in cross-border assets over the past 10-years instead of losing $179 billion in assets (a net shift of $769 billion in assets from foreign countries to the U.S.)."[394] Moreover, the report estimates that the U.S. would have kept 1,300 companies here if the tax code had a 25 percent rate.

While taxes are not the only—or even the top—consideration for companies looking to merge, the advantage countries with competitive tax systems have when deciding where to incorporate often provides a marginal advantage to put those countries at the top of the list. The merger between Burger King and Tim Hortons is a perfect example of the lack of competitiveness of the U.S. tax system. Burger King and Tim Hortons was a merger of similarly positioned companies that was driven by fundamental business synergies between the two companies—it made sense regardless of any tax implications. However, when it came time to determine where the new company would be domiciled, the U.S. was never even considered because of our tax system. If they would have domiciled in the U.S., the newly merged company would have lost about $5.5 billion in value over the first five years alone. Ultimately Canada was chosen as the headquarters location because of the favorable tax code.[395]

RECOVERY

The current U.S. corporate tax system inhibits American companies from competing globally and impedes their ability to increase domestic investment and jobs for American families. To restore competitiveness in an increasingly globalized economy, Congress must enact corporate tax reform that lowers the corporate tax rate and transitions the U.S. toward a territorial system. The Administration should stop trying to beat up companies when they move overseas and should start working with Congress to prevent the reason for their departure.

For more information, please visit:

CRS Report: The Corporate Income Tax System: Overview and Options for Reform
OECD: Corporate Income Tax Rate table
United States Senate Permanent Subcommittee on Investigations Committee on Homeland Security and Governmental Affairs: Impact of the U.S. Tax Code on the Market for Corporate Control and Jobs Report