



Wood LLP

Tax Alert



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Forget Inversions, These 20 Huge, Profitable Companies Already Pay Zero Tax

Why undergo the bad press and potential Congressional backlash of an inversion—not to mention the risk President [Obama will call the deals 'unpatriotic'](#)—if you *already* pay no tax? It would be like going out for a big meal right after Thanksgiving Dinner. It's long been true that inversions are only one tax tool in the arsenal of big and sophisticated companies.

Remember the flap over Apple's taxes? In May 2013, the Senate Permanent Subcommittee on Investigations released a report finding that Apple avoided \$9 billion in U.S. taxes in 2012. For Apple, the key was offshore units with no tax home, so-called stateless income. CEO [Tim Cook testified](#) that Apple doesn't use gimmicks, and that Apple and other companies in this high stakes game are doing nothing illegal.

Some companies say they would like nothing better than repatriating profits to the U.S. if they could only do it in a way that won't be taxed. And the amounts at stake are staggering. Senators Levin and McCain claimed that Apple skirted U.S. taxes on \$44 billion over four years. Apple isn't the only one.



In [September 2012](#), the Senate Permanent Investigations Subcommittee examined [Microsoft](#) and [Hewlett-Packard](#) tax avoidance strategies. Much of it is about off-shoring. But a new study says many big U.S. companies pay no taxes or have effective tax rates of 0%.

There are 20 such companies in the Standard & Poor's 500, including drugmaker [Merck](#) (MRK), computer storage company [Seagate](#) (STX) and automaker [General Motors](#) (GM). They reported effective tax rates of 0% or lower in the second calendar quarter despite reporting a profit for that same period.

So says a USA Today analysis of data from S&P Capital IQ. To be included, the companies also needed to report positive earnings before taxes including unusual items. So do you need to go offshore to pay 12%? Nope, not if you can pay zero at home. Reform the U.S. tax rate to make it competitive? Do they want less than zero, maybe a refundable credit?

A 2013 report from the U.S. Government Accountability Office found that profitable U.S. firms filing a Schedule M-3 paid federal taxes of 13% of pretax worldwide income. That's well below the top 35% statutory rate. But some profitable companies pay even less.

Take Merck, which had a *negative* effective tax rate during the second quarter of 7.5%. It got money back despite the fact that its income before taxes soared 52% to \$1.9 billion during the

quarter. Merck earns profits in countries with lower tax rates. In its regulatory filing, Merck pointed to the “beneficial impact of foreign earnings” as part of the reason for the low effective tax rate.

Perhaps more importantly, Merck got a tax benefit in the quarter from an option exercise connected with rival AstraZeneca buying Merck’s interest in a partnership. Financial moves connected to the deal resulted in Merck getting a one-time tax benefit. Last year, Merck’s effective tax rate was 18%.

Seagate’s fiscal year ended June 27, and the company had an income tax benefit of \$14 million. That was double Seagate’s \$7 million income tax benefit for fiscal 2013. During fiscal 2014, Seagate got a big tax benefit from “the reversal of a portion of the valuation allowances recorded in prior periods.”

But Seagate also points out it gets a boost from the fact its parent holding company is based in low-tax country Ireland. Seagate paid this low tax rate despite reporting income before taxes of \$1.6 billion during the quarter. In a familiar refrain, these companies say they’re following appropriate tax rules.

For example, several on this list are real-estate investment trusts, also called REITs. They include Public Storage (PSA) and Kimco Realty (KIM). REITs have become very popular, and it’s likely they will be expanded even further. They are required to pay out nearly all of their profits to investors. That keeps taxes low at the corporate level.

From S&P Capital IQ & USA Today research, here are 20 companies in the S&P 500 reporting 0% (or lower) effective tax rates during the second calendar quarter of 2014:

Company	Symbol	Net income Q2 2013 (\$ mils)
1. Merck	MRK	\$2,004
2. Seagate Tech.	STX	\$320
3. Thermo Fisher	TMO	\$278.5
4. General Motors	GM	\$278
5. Public Storage	PSA	\$276.8
6. Iron Mountain	IRM	\$271.6
7. Newmont Mining	NEM	\$180
8. Eaton	ETN	\$171
9. Avalonbay	AVB	\$158.1
10. Kimco Realty	KIM	\$89.5
11. Prologis	PLD	\$81.2

12. Boston Properties	BXP	\$79.1
13. Apartment Investment	AIV	\$77
14. Plum Creek Timber	PCL	\$55
15. Citrix Systems	CTXS	\$53
16. Crown Castle	CTXS	\$53
17. Macerich	MAC	\$16.1
18. News Corp.	NWSA	\$13
19. Essex Prop.	MRK	\$6.3
20. First Solar	FSLR	\$4.5

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