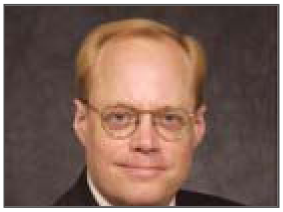
Forbes



Robert W. Wood
THE TAX LAWYER

TAXES 7/21/2014

Swiss Walgreens? $4 Billion Tax Cut Considered At Corner Of Happy, Healthy & Tax-Free

Walgreens is the U.S.'s largest pharmacy retailer with 8,200 stores across 50 states. America's drugstore, it has saturated the U.S. market. Most of Walgreens' yearly $72 billion in sales and $2.5 billion in profits come from the U.S. and are taxed here. Yet the company is considering a controversial move to lower-taxed Switzerland. An Americans for Tax Fairness Executive Summary says the move could cost American taxpayers $4 billion over five years.

The move is known as an inversion. Think of it as a corporate renunciation of U.S. citizenship. Walgreens won't be alone if it follows through. The biggest involved AbbVie, U.S. pharmaceutical company going Irish by buying Shire for $54 billion.

Walgreens Store Miami (Photo credit: Phillip Pessar)

The massive deal allows AbbVie to cut U.S. taxes by changing its tax domicile to the U.K. Other companies doing inversions include Medtronic, buying Covidien, and drugmaker Mylan Inc. buying Abbott Laboratories' non-U.S. business. More than 40 large U.S. companies have recently gone foreign this way.

As scrutiny intensifies, many companies downplay the tax advantages, but America's 35% corporate tax rate is high. Ireland's is 12.5%, and many other countries are also low. Companies cannot just move their headquarters, but an inversion can shield their income sourced outside the U.S. from our high 35% rate.

President Obama wants the law fixed to prevent these deals, as [a recent letter from Treasury Secretary Jack Lew]() urges. Actually, U.S. tax law took aim at inversions in 2004. Since then, Section 7874 of the Internal Revenue Code has covered inversions, insisting that the deal can't just be foreign on paper. In fact, more than 20% of the post-marriage combination must be owned by foreigners when the smoke clears.

But that provision hasn't stemmed the tide of deals. Now, Congress is trying to make inversions much more restrictive, upping the 20% rule for inversions to 50%. We may be seeing a rush to get deals done before the law is changed.

Many U.S. companies that expect much of their sales growth outside the U.S.–say China or India–have a special reason to go offshore. Having all income taxed in the U.S. can make them vulnerable to competition. If one competitor cuts its effective tax rate by, say, 10%, others believe they should too. Still, Congress is likely to restrict inversions and make them more foreign.

The Walgreens deal dates to 2012, when Walgreens moved to buy Alliance Boots (AB), Europe's largest drug wholesaler and retailer. In 2012, Walgreens bought a 45% equity stake. In February 2015, Walgreens has an option to buy the remaining 55%, which could spell inversion. Some U.S. Activists Slam Possible Walgreen Tax Move as 'Unpatriotic', while AB had its own run-in with being called that, reincorporating from the United Kingdom to Switzerland in 2008.

But fixing the U.S. tax code isn't easy, especially since many American businesses and legislators don't think the problem is patriotism. Many say the entire U.S. tax code is not competitive, driving U.S. companies to go on the hunt. Scrutiny is coming from abroad too. Prime Minister David Cameron's UK government have called for increased protection of British companies in takeover negotiations where there is a national interest at stake.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.