Treasury Rules Axe $160 Billion Merger; Obama Calls it Good

New Jersey's wealthiest resident, David Tepper, decided to move himself and his business, Appaloosa Management, to Florida in order to take advantage of Florida's much more favorable tax climate.

It's going to make a big difference. Tepper earned $2.2 billion in 2012 and another $3.5 billion in 2013 as manager of his hedge fund. New Jersey's top income tax rate is nearly nine percent. Nine percent of $5.7 billion is … well, it's so much that it could put New Jersey's state budget into the red.

New Jersey depends on personal income taxes for about 40 percent of its budget. Said Frank Haines of New Jersey's Office of Legislative Services, "We may be facing an unusual degree of income tax forecast risk if news reports are true that [Tepper], the person ranked by *Forbes Magazine* as the wealthiest New Jersey resident, has shifted [his] personal and business domicile to another state."

In Florida there is no income tax. And no estate tax, either. In New Jersey, had Tepper died there, his estate, estimated to be in excess of $11 billion, would be subjected to a 16-percent maximum estate tax rate.

On Tuesday, two massive drug companies, U.S.-based Pfizer and Ireland-based Allergan, ended plans to do essentially the same thing: change tax domiciles in order to save their shareholders an estimated $1 billion a year. The plans are called a tax inversion, where one company buys another located in a lower tax jurisdiction, and then moves its tax address there. Ireland currently is a much more favorable business climate than the United States, with a very low flat corporate tax rate of 12.5 percent for publicly-traded companies, compared to the top U.S. rate (which Pfizer would certainly be in) of 39 percent. So it's understandable why Pfizer would want to make the merger, until the U.S. government had something to say about it.

Allergan's Chief Executive Brent Saunders expressed his dismay at new rules, ostensibly to curb loss of tax revenue owing to inversions, promulgated by the U.S. Treasury just in time to stop the merger: "It really looked like they did a very fine job of constructing a temporary rule to stop this deal … obviously it was successful."

President Obama has called inversion one of the "most insidious tax loopholes out there," adding that it somehow steals money from the poor and the middle class, starves the government of much-needed revenues to fund its unconstitutional programs, and makes the wealthy wealthier. Obama also denounced tax inversions as unpatriotic: "They effectively renounce their citizenship. They declare that they're based somewhere else. It sticks the rest of us with the tab, and it makes hardworking Americans feel like the deck is stacked against them."

Obama said he wants Congress to make the Treasury's temporary rule permanent: "Only Congress can close [the door to tax inversions] for good, and only Congress can make sure that all the other loopholes that are being taken advantage of are closed."

Governmental threats have already unraveled another deal worth $55 billion between U.S.-based AbbVie Inc. and Ireland-based Shire PLC. When there's enough money at stake, it appears, governments will do anything to stop a smart business deal.

Naturally, Senator Chuck Schumer (D-N.Y.), in line to become the senate minority leader in the next Congress following Senator Harry Reid's retirement, was equally clear about punishing those trying to protect their, or their shareholders', wealth from governmental confiscation: "These regulations will make potential inverters and foreign acquirers think twice before making the leap, and those bad actors should be on notice that we intend to clamp down even further."

On the other hand, Republican Party presidential candidate Donald Trump does have some ideas shaped by real-world experience, the kind that is missing from the resumes of Obama and Schumer. He wants to cut the corporate tax rate from its present onerous 35 percent down to 15 percent in order to reduce the incentive to do tax inversions in the first place.

Even better: Cut the corporate tax rate to zero and let those interested in protecting their, and their shareholders', wealth, come to the United States for relief. Let the United States once again be the world's tax haven. David Tepper and others like him would no doubt agree.

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