FACTCOALITION
Financial Accountability & Corporate Transparency

The FACTs on Repatriation

Corporations have already figured out how to bring back money and pay trivial tax rates.

"Sophisticated U.S. companies are routinely repatriating hundreds of billions of dollars in foreign earnings and paying trivially small U.S. taxes on those repatriations."

Bloomberg:

What nobody's saying publicly is that U.S. multinationals are already finding legal ways to avoid that tax. Over the years, they've brought cash home, tax-free, employing strategies with nicknames worthy of 1970s conspiracy thrillers -- including "the Killer B" and "the Deadly D."

Merck & Co Inc., the second-largest drugmaker in the U.S., last year brought more than $9 billion from abroad without paying any U.S. tax to help finance its acquisition of Schering-Plough Corp., securities filings show. Merck is also appealing a federal judge's 2009 finding that Schering-Plough owed taxes on $690 million it had earlier brought home from overseas tax-free.

The largest drugmaker, Pfizer Inc., imported more than $30 billion from offshore in connection with its acquisition of Wyeth last year, while taking steps to minimize the tax hit on its publicly reported profit. Disclosures in Switzerland and Delaware by Eli Lilly & Co. show the Indianapolis-based pharmaceutical company carried out many of the steps for a tax-free importation of foreign cash after its roughly $6 billion purchase of ImClone Systems Inc. in 2008.

"Sophisticated U.S. companies are routinely repatriating hundreds of billions of dollars in foreign earnings and paying trivially small U.S. taxes on those repatriations," said Edward D. Kleinbard, a law professor at the University of Southern California in Los Angeles. "They devote enormous resources first to moving income to tax havens, and then to bringing those profits back to the U.S. at the lowest possible tax cost."

"The current U.S. international tax system is the best of all worlds for U.S. multinationals," said David S. Miller, a partner at Cadwalader, Wickersham & Taft LLP in New York. That's because the companies can defer federal income taxes by shifting profits into low-tax jurisdictions abroad, and then use foreign tax credits to shelter those earnings from U.S. tax when they repatriate them, he said.

It is a bad idea that failed the first time.

"The balance of evidence at this point suggests [tax holidays are] not particularly successful at creating jobs, if that's the goal."

National Journal:

There's just one problem: veteran tax policy experts, Republican and Democratic alike, say it's a bad idea.

The Bush administration was staunchly against the idea in 2004, though Congress passed it as part of a broader corporate tax bill that year. The Obama administration is against it now. **Tax policy experts across the political spectrum say the idea might simply encourage companies to park more of their future profits outside the country in the hope of yet another "holiday."**

Analysts say the **repatriation holiday in 2004 didn't live up to the hype**. In fact, many economists say a tax holiday—which would allow U.S. multinational companies to bring overseas profits (that haven't been taxed so far) home at a reduced rate of perhaps 5 percent, rather than the normal corporate tax rate that tops out at 35 percent—**would do little to create jobs.**

The 2004 holiday, which allowed companies to repatriate foreign earnings at a 5.25 percent rate, brought $362 billion back to the United States, $312 billion of it at a reduced rate, according to the Internal Revenue Service. The repatriated dollars accounted for 45 percent of foreign holdings at the end of 2004. But the move didn't create the jobs that were promised.

"The balance of evidence at this point suggests [tax holidays are] not particularly successful at creating jobs, if that's the goal," said Joseph Thorndike, director of the tax history project at Tax Analysts. "You could make a marginally better case that as far as stimulus goes, they stimulate the economy, but they're not the most effective form of stimulus."

The money went to shareholders, not job creation.

"..if you're a politician claiming this will create a lot of jobs or new investment, it isn't supported by the data."

CNN Money:

And while plenty of outfits benefited from the break -- 843 corporations made use of the holiday, bringing back a total of $362 billion, according to the IRS -- the broader economic benefits were dubious.

The Treasury Department wrote rules trying to ensure that the recovered cash was in fact invested back into the companies. But money is fungible. Although the rules expressly prohibited using the funds for dividend payments or stock buybacks, subsequent analysis has shown participants sent most of it to shareholders anyway. One study, released by the National Bureau of Economic Research, found that for every dollar of repatriated cash, companies bumped up shareholder payouts between 60 and 92 cents.

"A tax holiday would bring a substantial amount of cash back to the United States and paying that out to shareholders is good for the economy," said study co-author Kristin Forbes, an economics professor at MIT's Sloan School of Management and a member of then-President George W. Bush's council of economic advisers. "But if you're a politician claiming this will create a lot of jobs or new investment, it isn't supported by the data."

Instead of raising revenue, it raises costs.

“*To pay for giving this large tax cut once again to a small group of U.S. companies without increasing the deficit, we would have to raise taxes on other U.S. businesses. “*

U.S. Treasury

Although advocates argue that a repatriation holiday could be costless or even raise tax revenue, the official Congressional scorekeeper, the Joint Committee on Taxation, estimated before enactment that the 2004 repatriation holiday would actually cost billions of dollars. In 2009, when this idea was being pushed once again, Senator Baucus indicated during Floor debates that the cost of a new holiday had increased to $30 billion, presumably because a second holiday would encourage further erosion of the U.S. tax base through shifting of profits overseas. Moreover, according to outside estimates, just five firms got over one-quarter of the tax benefits of the repatriation holiday, and just 15 firms got more than 50 percent of the benefits. To pay for giving this large tax cut once again to a small group of U.S. companies without increasing the deficit, we would have to raise taxes on other U.S. businesses.

In assessing the 2004 tax holiday, the nonpartisan Congressional Research Service reports that most of the largest beneficiaries of the holiday actually cut jobs in 2005-06 – despite overall economy-wide job growth in those years – and many used the repatriated funds simply to repurchase stock or pay dividends. Today, when U.S. corporations have ready access to cash they have accumulated and are holding here in the United States, it is even harder to make the case that a repatriation holiday will unlock new investment and job creation.

Conclusion: Giving corporations a repatriation holiday is bad for taxpayers, bad for the budget and will only serve the interests of corporate executives. Any attempt to bring back the lost revenue must at the same time permanently close the loopholes that enable and encourage the off-shoring of jobs and profits.