AMERICANS FOR TaxFairness

To: Editors and Columnists
From: Frank Clemente, Executive Director, Americans for Tax Fairness
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PFIZER RENOUNCES ITS AMERICAN 'CITIZENSHIP' TO DODGE TAXES

Please Write Opposing Pfizer's Latest Attempt to 'Desert' the Country that Made its Success Possible

(WASHINGTON, D.C.) New York City-based Pfizer, one of America's largest pharmaceutical companies, announced yesterday it has finalized a deal to merge with the Irish corporation Allergan, which will enable it to change its tax residence to Ireland, a tax haven, in order to dodge U.S. taxes. The merged company will be named Pfizer, and Pfizer will retain its current U.S. headquarters, management structure and facilities. While not technically structured as a corporate inversion, the deal will have the same benefit in that it should permit Pfizer to permanently reduce its already very low tax rates. In effect it is an anti-inversion inversion.

Pfizer has more than $140 billion in profits offshore, on which it has paid no U.S. taxes, according to a report from Americans for Tax Fairness and *The New York Times*. Pfizer has constructed this deal in a way that should allow it to avoid U.S. taxes on those profits – unless Congress acts to change the law. This tax avoidance would be prohibited under a traditional inversion, thanks to a rule issued in 2014 by the U.S. Treasury and the IRS.

Pfizer wants to continue to enjoy all the benefits of being an American corporation but not pay the taxes required for that privilege. Under this maneuver Pfizer would become a tax deserter. It would not pay its fair share of taxes for its workforce educated in our public schools; its use of our transportation systems; the benefits it gets from government research to develop new drugs; the protections provided by our strong judicial, banking and regulatory systems; and so many other factors that contribute to its financial success.

Pfizer claims that it is the 35% U.S. corporate tax rate that is forcing it to change its address to a tax haven where it will pay a much lower rate. Ironically, Pfizer appears to be one of America's more successful corporate tax dodgers, as are many of the multinational corporations that are able to shift profits away from the United States to low-tax jurisdictions because of tax loopholes. Pfizer claimed its worldwide tax rate was 25.5% last year, but *The Wall Street Journal* and a new report from Americans for Tax Fairness showed its actual rate was 7.5%.

Pfizer claims it has lost $15 billion in the U.S. over the last five years but earned $78 billion offshore, despite having 40% of its sales and 50% of its assets in America. Clearly a significant amount of income is being shifted from the U.S. to Pfizer's 110 subsidiaries in 15 tax havens.

We respectfully request you write an editorial or column strongly opposing Pfizer's attempt to desert the country that has contributed so much to its success. We ask that you write in support of congressional action that would change the favorable rules that benefit Pfizer (before it completes its merger with Allergan sometime in the second quarter in 2016) and other U.S. companies planning an inversion.

Pfizer's Latest Inversion Attempt

This is the latest attempt by Pfizer to merge with a foreign-based corporation in order to gain an official address outside the United States. (In 2014, it tried to engineer an inversion with British-based AstraZeneca but was rebuffed.) In this attempt, the much-smaller Allergan is buying Pfizer so that it will become a subsidiary of Allergan. Allergan once was an American company, and it still has large facilities in New Jersey. It is now incorporated and headquartered in Ireland as a product of an inversion.

Pfizer's shareholders would own 56% of the merged company. Effectively, Pfizer is renouncing its U.S. citizenship and changing its corporate address to a tax haven to dodge U.S. taxes. *The Wall Street Journal* reported on the irony of the smaller company officially acquiring Pfizer, noting that "However the deal is technically structured, the much larger Pfizer will effectively be buying the Dublin-based Allergan and assuming a lower offshore tax jurisdiction."

Despite changing its official incorporation address across the Atlantic Ocean, little will change for Pfizer. The corporation's headquarters will remain in New York City and current Pfizer CEO Ian Read will remain CEO of the combined company, according to Reuters.

Pfizer's action shows our tax system is rigged with tax loopholes and tax breaks benefiting the wealthiest corporations in America. Pfizer is already one of America's worst corporate tax dodgers, manipulating the system to avoid its responsibilities. This merger is an attempt to make permanent its massive tax avoidance strategies.

Consider these facts about Pfizer that have been reported in various news sources, and/or in a report by Americans for Tax Fairness.

- Pfizer has dramatically overstated its corporate tax rate, a key rationale Pfizer is giving for its latest attempt at a corporate inversion. The company reported to the Securities and Exchange Commission (SEC) that its worldwide effective tax rate was 25.5% in 2014. But it was just 7.5%, according to ATF's report and *The Wall Street Journal*. Pfizer averaged just a 6.4% effective tax rate between 2010 and 2014 compared with the 24% average it reported to the SEC. The reason for the discrepancy is that Pfizer's numbers include very large provisions (reserves) for U.S. tax that will never actually be paid, unless Pfizer elects unilaterally in the future to incur the tax bill, which seems remote. A large tax loophole known as deferral lets U.S. firms avoid paying taxes on any offshore profits until they are repatriated, which often never occurs.
- Pfizer had more than $140 billion in profits parked offshore at the end of 2014, on which it has paid ZERO U.S. income taxes, according to ATF and *The New York Times*. It is quite likely that a lot – if not most – of that money is in 10 tax havens where Pfizer has 151 subsidiaries. Moreover, Pfizer should be able to avoid paying the U.S. taxes it owes on these offshore profits because it structured the merger to be a "non-inversion" where Pfizer's original shareholders *own 56%* of the new company. The Treasury Department and the IRS issued a rule in September 2014 that prohibited such tax avoidance under an inversion (defined as shareholders of the U.S. company *owning 60% or more* of the merged businesses). Since this is no longer an inversion and Pfizer's shareholders in the new company are less than 60%, the merged company would seem to have tax-free access to the $140 billion of offshore profits.
- Pfizer appears to be involved in a massive shell game shifting profits to these tax havens to dodge paying what it owes at home. Pfizer reported to the SEC that it lost $16 billion here from 2010 through 2014 while earning $78 billion offshore. That's a loss of $3 billion per year, on average, in America over the last five years, but earnings of $15 billion per year offshore, on average. Yet, Pfizer had 40% of its sales and 50% of its assets in the U.S. in 2014. Clearly, a major tax dodge using tax havens is occurring.
- Pfizer is getting rich off American taxpayers. Pfizer pocketed $5.3 billion in federal contracts between 2010 and 2014 – about $1 billion a year from selling drugs to Medicare, Medicaid and other U.S.

government programs, according to federal contracting data analyzed by ATF. Five percent of Pfizer's $20 billion annual U.S. revenue is from the federal government; the rest is from state and local governments, insurers and ultimately American consumers. When Pfizer doesn't pay its taxes the rest of us get stuck with the tab, it adds to the deficit and we don't have the money needed to invest in jobs and services that make America strong.

Background on Inversions

Corporate inversions are made possible by a loophole in U.S. law that allows a corporation to become foreign when it buys a foreign company and then becomes a subsidiary of that new entity – even if the foreign company is much smaller than the American firm. The foreign company is typically incorporated in a tax haven. To qualify for an inversion, more than 20% of the stock of the newly merged company must be owned by foreigners, or 25% of company operations must take place in the foreign jurisdiction where the merged company is headquartered. These are very low hurdles that make inversions relatively easy.

The U.S. corporation doesn't actually move its operations overseas; the change takes place mostly on paper. An inverted corporation continues to take advantage of an educated American workforce, relies on our legal system to protect its investments and patents, uses our transportation system to get its products to market, and has ready access to more than 300 million American consumers. In addition, some inverting corporations – like Pfizer – benefit directly or indirectly from federally-funded research, and will continue to sell their products and services to the federal government. But an inversion slashes what they pay for those services, leaving American taxpayers to make up the difference.

The U.S. Treasury will lose at least $33.5 billion over the next 10 years from corporate inversions, according to the Joint Committee on Taxation. *For more about how corporate inversions work and for additional information, see the ATF fact sheet "Corporate Tax Inversions."*

Faulty Logic About the Competitiveness of the U.S. Tax System

Corporations argue that inversions are justified because the U.S.'s 35% corporate tax rate on profits is the highest in the world and puts American companies at a disadvantage. They claim that if Congress would pass tax reform and lower corporate tax rates the incentive to invert would be removed. Pfizer CEO Ian Read told *The Wall Street Journal* Pfizer is forced to face foreign competition "with one hand tied behind our back."

But the truth is many large corporations don't pay anything close to the 35% statutory rate, in part due to the offshoring of profits even without a corporate inversion. An analysis by 24 international tax experts in September found corporate claims about the U.S. tax rate to be vastly overstated. In a letter to members of Congress, they wrote:

> *"U.S. multinationals are highly profitable and competitive under the current U.S. tax system. First, it is worth noting that U.S. corporations in general have done very well in recent years. They are more profitable than ever, with $1.8 trillion in profits in the second quarter of 2015 alone. Their profits as a share of GDP – at 9.8% – are nearly at all-time highs. Their U.S. taxes as a share of GDP are just 2%, which are near all-time lows. And U.S. corporate taxes as a share of federal revenue have plummeted from 32.1% in 1952 to 10.6% last year. …*
>
> *There is no factual basis for the assertion that U.S. multinationals cannot compete globally because of the U.S. tax system. The effective tax rates on their worldwide income, including* ***U.S. taxes, are typically far below the 35% statutory rate – at one-half the 35% rate or even less,*** *according to some estimates. In sum, U.S. multinationals are unquestionably the world's leaders in global tax-avoidance strategies, relying on profit shifting to foreign tax havens and other tax-avoidance strategies. …*

As discussed earlier, despite its self-serving claims Pfizer is not at a competitive disadvantage operating under the U.S. tax system. If anything, Pfizer is highly advantaged like most large multinational corporations. U.S. firms have $2.1 trillion in offshore profts that are currently untaxed. Just 50 companies hold three-quarters of those profits. Fifty-five percent of those profits are in tax havens, up from 23% in 1982. Corporations are paying a tax rate well below 10% on those offshore profits. [See Figures 1, 2, 3 and 6]

A non-inversion where Pfizer shareholders nonetheless control the merged company would permanently lock in Pfizer's current low tax rate and ensure that no taxes are paid to the U.S. on future offshore profits unless they are attributable to the new U.S. subsidiary (which has reported losing $15 billion over the last five years). This would give Pfizer an even bigger unwarranted tax edge against other American companies that are paying their fair share. Pfizer wants to continue to enjoy all the benefits of being an American corporation but not pay the taxes required for that privilege.

Congress Can Stop Pfizer's Inversion

Companies should not be able to desert America by changing their corporate address to a tax haven. There is legislation in Congress that could address this problem: the Stop Corporate Inversions Act, sponsored by Sens. Dick Durbin (D-IL) and Jack Reed (D-RI) and by Reps. Sander Levin (D-MI) and Lloyd Doggett (D-TX) [S. 198 and H.R. 415]. These bills are stuck because of the power of corporate lobbyists and their allies in Congress.

The legislation would appear to apply to the Pfizer-Allergan merger:

- Currently a U.S. company can get the tax benefits of an inversion if the shareholders of the foreign company own 20% or less of the new combined corporation. The legislation would require at least 50% ownership by the shareholders of the *foreign* company. Pfizer's original U.S. shareholders will own 56% of the merged company so it would not meet the proposed new test.
- Regardless of the percentage of ownership in the new combined corporation, the legislation would require both the U.S. firm and the new smaller foreign parent to be regarded as U.S. tax residents as long as the new company is managed and controlled in the United States and if it engages in significant business activity here. The new Pfizer has announced that it is not moving to Ireland; its CEO, staff and facilities will remain here, so both entities would be subject to U.S. tax jurisdiction.

Please use the power of your platform to pressure Congress to move this legislation ahead.

Key Resources

- Americans for Tax Fairness Pfizer Report
- Pfizer gobbles up tax advantages in a turkey of a transaction, *The Washington Post,* 11/23/15
- Pfizer Chief Defends Merger With Allergan as Good for U.S., *The New York Times,* 11/23/15
- Tax Notes: Scholars Criticize International Tax Reform Proposals, 10/5/2015
- Tax Experts Summary of Research on U.S. Effective Corporate Tax Rates
- Pfizer Piles Profits Abroad, *The Wall Street Journal,* 11/8/15
- A Tax-Cutting Move That Pfizer Can Hardly Resist, *The New York Times,* 11/14/15
- How Pfizer Has Shifted U.S. Profits Overseas for Years, *Reuters,* 11/16/15
- Pfizer's Creative Merger Plan Revives Concerns About Tax-Avoiding 'Inversions', *Los Angeles Times,* 11/16/15
- Protecting the tax base: Why it's important to block tax inversions, *The Washington Post,* 11/19/15
- What You Will Pay - But Executives Won't - If Pfizer Moves to Ireland, *The Washington Post, 11/*9/15
- When U.S. Firms Decide to 'Desert' the Country, We All Pay a Price, *The Washington Post,* 11/4/15
- Why Pfizer is so Bent on Lowering its Tax Rate, *CBS MoneyWatch*, 11/2/15