Guess Who Wants to Kill Corporate Tax Reform

By MICHELLE HIRSCH, The Fiscal Times
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On the surface, large, publicly traded, U.S. firms appear united in their desire to push for a lower marginal tax rate on their profits as part of a broader corporate tax overhaul. Multiple business advocacy organizations and a string of Republican lawmakers say dropping the top federal U.S. corporate rate from 35 percent to 25 percent would boost U.S. companies to hire and invest.

However, getting to either a 25 or 28 percent rate without adding to the federal deficit can unleash a feisty conflict among businesses about who ultimately funds a rate cut. Some large companies, including Disney, UPS, and Macy's, pay more than 35 percent effective tax rates according to their most recent annual reports, unable to take advantage of corporate tax breaks and loopholesin the code. Companies with vast overseas operations such as Cisco, Google, and Pfizer pay 18, 21, and 22 percent effective tax rates respectively by leveraging billions in tax breaks, in most cases through stashing income abroad.

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For the former group, a 10 percent rate cut would be a flat-out gain, but for the latter group the potential loss of tax breaks and overseas tax deferral and transfer pricing maneuvers to finance lower marginal rates could mean higher tax bills.

"Particular companies are worried about the base broadening—that they would actually be losers," said Chris Edwards, Director of Tax Policy at the Cato Institute, a libertarian think tank. "As soon as you start talking about particular loophole-closers that's when you divide the corporate community and the battle starts."

On April 1, the U.S. will officially earn the dubious distinction of having the highest corporate tax rate in the developed world after Japan cuts its rate by five percentage points. Conservative lawmakers and some business leaders are pointing to Sunday's milestone as further proof that the U.S. needs a lower corporate rate to keep American corporations competitive with foreign counterparts. President Obama last month touted a plan to cut the top rate to 28 percent, by scrubbing the vast majority of the more than 130 tax preferences businesses currently enjoy—or what economists refer to as "base broadening."

But the battle hasn't erupted because tax reform legislation has yet to be introduced, and likely won't be until after the 2012 election. However, multiple tax experts who spoke with The Fiscal Times say once the tax reform window opens, the most politically and mathematically logical targets to finance a substantial corporate rate reduction will be U.S. multinationals with large shares of their profits stashed abroad.

The major reason is that raising taxes on individuals, borrowing the money from abroad, or cutting spending on Medicare and Social Security are political nonstarters, said Howard Gleckman, a senior fellow at the Urban Institute and author of the TaxVox blog. Another is that even a small tax increase on a few firms would supply the Treasury with substantially more revenue than shifting the burden to small businesses, Gleckman said.

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"If you're a Verizon, a Wal-Mart, or a Disney, you don't make or keep very much money outside the United States, so you've got very little to lose and are focused on pushing a marginal rate cut through," said Ed Kleinbard, tax law professor at the University of Southern California and a former chief of staff for the congressional Joint Committee on Taxation. "But if you're a large multinational like Google or General Electric with lots of assets offshore, you could be a tremendous loser."

Drug maker Pfizer and wireless broadband company Broadcom earn more of their profits overseas than they do in the U.S., while companies like Cisco, Apple, and Microsoft earn more than two-thirds overseas. In contrast, companies including Verizon, Disney, and Boeing earn less than 10 percent abroad, according to calculations using annual report data from Tax Analysts' Marty Sullivan.

“The international issues are not as critical to our industry as for others,” said Rachelle Bernstein, Chief Tax Counsel for the National Retail Federation, which represents 3.5 million mostly brick-and-mortar U.S. businesses. “The rate reduction is what is what is most important to us.”

For major U.S. multinationals like GE, Apple, Pfizer, and Microsoft, the priority is defending and enhancing their ability to operate and profit outside of the U.S. “The international area is a big concern,” said Ken Kies, a corporate tax lobbyist who lobbies on behalf of those firms. He said he recognizes the potential rift this could drive between the companies he represents and those that focus their capital in the United States. “But people aren’t just going to blindly say ‘I’ll take what you can give me.’

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Lobbyists for largely domestic firms say they see signs in their work that large U.S. multinationals may abandon the fight for corporate tax reform and even battle against it. “I don’t expect companies with lots of international income being on the front lines with us pushing for reform,” said one corporate lobbyist who represents a large firm with an effective tax rate of about 31 percent. “If you have an effective rate that is lower than everyone else, you of course have an interest in maintaining the status quo… they’re working against reforms that might lead to them paying a higher effective rate at the end of the day.”

Competing business priorities on taxes also pose a problem for business groups like the Chamber of Commerce, the Business Roundtable, and the National Association of Manufacturers, which represent both camps. “The big business lobbying groups are going to have a difficult time trying to represent all their companies on the tax issue,” Cato’s Edwards said.

But, so far, Chamber of Commerce members say they are unified and willing to make tradeoffs to achieve comprehensive tax reform, said Caroline Harris, the Chamber’s chief tax counsel.

Moreover, member companies with relatively low effective rates may also be willing to budge since “there is some appeal to being able to have a much more simplistic system and not have to dedicate resources, whether it be capital or human resources, to getting those rates,” Harris said.