Insight

Oxfam Report: Factual Inaccuracies and Other Musings

GORDON GRAY | APRIL 15, 2016

Oxfam America recently announced that U.S. firms were hiding $1.4 trillion overseas in tax havens to avoid taxes. Now, the arrival of April 15th often precipitates a slew of tax-related analysis, opinion, and vitriol, in descending order of rigor. Oxfam America's report on corporate taxation is an example of the lower tier of these tax-season observations, marked by glaring factual inaccuracy and hyperbole that does little to inform the public debate on tax policy. The report fails this debate in three ways: 1.) it blatantly misrepresents purported "cash reserves" held by large corporations overseas 2.) it fundamentally mispresents the tax system to which these firms are subject, and 3.) it falls back on tired rhetoric of "opaque and secretive" tax practices and the specter of "an army of lobbyists" at work that disserves an important public policy question.

The Oxfam America report essentially argues that large U.S. corporations, during a time period (2008-2014) that spans the Great Recession didn't pay enough in taxes, which in turn, Oxfam would like to see spent on its priorities.[1] Among the key "findings" in the report is that the top 50 U.S. corporations: "currently hold $1.4 trillion in offshore cash reserves." The biggest problem with this statement is that it is simply not true. Permanently reinvested overseas earnings are not universally held in cash, and indeed are often reinvested in active business operations overseas. Firms, particularly industrial and manufacturing firms, often invest these earnings in plants and equipment to compete with foreign plants overseas.[2] For financial firms even some overseas cash and other liquid holdings *must* be held overseas for regulatory reasons.[3]

By deliberately conflating indefinitely reinvested overseas earnings with "cash," Oxfam misleads readers to believe that overseas earnings are unused and ripe for return to U.S. tax coffers. The data Oxfam uses is not necessarily cash and, as one study notes, measures of overseas earning are "not helpful in providing investors with an indication of foreign cash levels."[4] The Oxfam report even fesses up to this sleight of hand, noting that: "Although these earnings are not always held as cash or cash reserves and may actually be re-invested in the foreign subsidiaries at times, they are still earnings…" Unfortunately, this disclosure is made on page 17 of the 25-page report.

Just short of factual inaccuracy is the Oxfam report's failure to articulate the tax system in which these U.S. firms operate, which is marked by the highest corporate rate in the developed world. Among all world nations, only Guyana imposes a higher rate than the U.S.[5] Beyond the headline statutory rate, U.S. companies face an effective tax rate of 27.6 percent, whereas other OECD headquartered companies face an average of only 15.4 percent. The average tax rate faced by companies in non-OECD countries is 16.6 percent.[6] Equally important is that the U.S. clings to the worldwide system, which imposes a lax liability on overseas earnings when repatriated to the U.S. This worldwide tax system has been rejected by most of the U.S.'s foreign competitors in favor of territorial systems that do not tax foreign income. Of the 34 economies in the OECD for example, 28 have adopted such systems, including recent adoption by Japan, the United Kingdom and New Zealand.[7] The combination of high tax rates, an antiquated international tax system, and growing overseas markets augurs in favor of the need for U.S. firms to invest in operations overseas. The Oxfam fails to acknowledge this and rather ascribes sinister motives to overseas investments – including those in "tax havens." Notwithstanding that any nation but Guyana could arguably qualify as a tax haven compared to the U.S., the Oxfam report relies on estimates that overstate income attributable to nations such as Bermuda, the Netherlands, and Luxembourg.[8]

Lastly, the Oxfam report relies on facile images of “secretive” tax arrangements and an “army of lobbyists” in its rhetorical assault on what is entirely lawful conduct. First, the data presented in the Oxfam report is based on data *disclosed by the corporations* it assails. Hardly secretive, the data is available to anyone with an internet connection. The Oxfam report also attempts to paint a picture of U.S. firms using lobbyists to cut their taxes or advance their own agenda. This is problematic on two fronts. In this regard the “army” of corporate lobbyists represent a singular failure – the U.S. corporate tax hasn’t been cut since 1986, and indeed, was *increased* in 1993.

The Oxfam report is typical of many recent “analyses” dealing with corporate taxation. It relies on sensational and misleading rhetorical in the effort to advance a political agenda. There are legitimate policy concerns with the U.S. corporate tax system, but reports like that released by Oxfam do little to inform them.

[1] http://www.oxfamamerica.org/static/media/files/Broken_at_the_Top_4.14.2016.pdf

[2] https://www.americanchemistry.com/Media/PressReleasesTranscripts/RelatedPDF/Proposals-to-Repatriate-Foreign-Earnings-Ignore-Realities-of-Manufacturing-Investment.pdf ; http://www.ge.com/sites/default/files/GE_2015_Form_10K.pdf

[3] http://www.americanactionforum.org/insight/international-capital-requirements-and-overseas-corporate-holdings/

[4]Mott, D., and A. Schmidt, 2011, Accounting issues: Show us the foreign cash!, J.P. Morgan North America Equity Research (September 12, 2011) as cited in Blouin, Jennifer L. and Krull, Linda K. and Robinson, Leslie A., The Location, Composition, and Investment Implications of Permanently Reinvested Earnings (July 8, 2014). Available at SSRN: http://ssrn.com/abstract=2154662 or http://dx.doi.org/10.2139/ssrn.2154662

[5] http://www.actontaxreform.com/act-tax-facts-u-s-avoided-worlds-highest-corporate-tax-rate-2015-thanks-guyana/

[6] http://businessroundtable.org/media/news-releases/bottom-line-u.s.-effective-corporate-tax-rates-rank-among-the-highest

[7] http://businessroundtable.org/uploads/studies-reports/downloads/Taxation_of_American_Companies.pdf

[8]http://taxfoundation.org/blog/ctj-s-measurement-problem