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The Honorable Secretary Jack Lew
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Lew:

I write to urge the Department of the Treasury to take action to block the corporate inversion planned by the pharmaceutical giant Pfizer. As Ranking Member on the Senate Budget Committee, I have very serious concerns about the fiscal impacts of a failure to act. A recent study from Americans for Tax Fairness estimates that preventing the inversion of Pfizer alone could save as much as $35 billion in revenue, which is more than the entire amount of budget cuts that many Republican lawmakers are demanding for the coming fiscal year.

In November 2015, Pfizer announced a $160 billion deal to acquire Allergan, a pharmaceutical company that is itself the product of an earlier corporate inversion and therefore treated as an Irish company for tax purposes. The Pfizer-Allergan merger, which has not yet been finalized, is structured to result in a company that is technically based in Ireland for tax purposes. This is nothing less than a tax scam. The allegedly newly formed Irish company would continue to be managed from its headquarters in the U.S. and 56 percent of the company would still be owned by Pfizer's shareholders.

Congress should enact legislation that would tax such a corporation as an American one, and thus end the scourge of corporate inversions. Until such legislation is enacted, the Department of the Treasury has authority, under existing law, to block some of the tax dodging techniques that become available to corporations after they invert.

One of these tax-dodging techniques is known as a "hopscotch" loan. The profits that are officially held offshore by subsidiaries of American corporations are subject to U.S. taxes when they are repatriated. But after a corporation inverts, it can move these offshore profits to its U.S. shareholders through transactions that appear to be loans to the ostensibly foreign parent company.

Treasury has already blocked this technique for inverted corporations, but defines "inversion" as an American-foreign merger leaving the shareholders of the American corporation owning at least 60 percent of the allegedly newly formed foreign company. As already explained, the Pfizer-Allergan merger just barely avoids that threshold by leaving the Pfizer shareholders owning 56 percent of this company.

A recent article from tax law scholars Stephen E. Shay, J. Clifton Fleming Jr., and Robert J. Peroni argues that the Department has the authority under existing law to stop hopscotch loans and "earnings stripping," another tax avoidance technique, for all foreign-parented corporations, including but not limited to inverted corporations.[i] I would urge the Administration to take this action. Large multi-national corporations should not be able to avoid paying U.S. taxes when children in America go hungry. We must demand that these profitable corporations pay their fair share in taxes.

The stakes are high. The recent study from Americans for Tax Fairness concluded that Pfizer alone could save as much as $35 billion in taxes through hopscotch loans if its inversion is completed.[ii] I find it ironic that some of my Republican colleagues, in their internal budget negotiations, claim that $30 billion in deficit-reduction is required for the coming fiscal year. Preventing the inversion planned by just one company, Pfizer, could produce more deficit-reduction than the cuts they are demanding.

Blocking this inversion would not only be sound fiscal policy, it would also act as a strong deterrent to other companies that are contemplating similar tax scams.

Thank you for your attention to this important matter.

Sincerely,

Bernard Sanders
United States Senator

[i] Stephen E. Shay, J. Clifton Fleming Jr., and Robert J. Peroni, "Treasury's Unfinished Work on Corporate Expatriations," Tax Notes, February 22, 2016.
https://dash.harvard.edu/bitstream/handle/1/25499324/Shay_Fleming_Peroni%20Treasury_s%20Unfinished%20Work%20on%20Corporate%20Expatriations%20150tn0933%5B1%5D.pdf?sequence=1
[ii] William Rice, Frank Clemente, "Pfizer: Price Gouger, Tax Dodger," Americans for Tax Fairness, February 2016.
http://www.americansfortaxfairness.org/reports/pfizer-price-gouger-tax-dodger/