OPINION: REVIEW & OUTLOOK

Jack Lew's Flee America Plan

The Obama Treasury wants to drive more U.S. companies overseas.

So the same Administration that refuses to work seriously on tax reform has decided that its top economic priority is providing even more incentives to drive American companies overseas. And then accusing anyone who disagrees of having a lack of "economic patriotism."

Yes, that can only be Jack Lew in action, the Treasury Secretary who must make the statue of Alexander Hamilton want to put on a blindfold. On Tuesday he sent a letter to House Ways and Means Chairman Dave Camp urging the Michigan Republican to punish American companies that decide to opt out of the developed world's highest corporate tax rate.

"What we need as a nation is a new sense of economic patriotism," lectured Mr. Lew. The letter called for Congress to urgently enact new penalties and restrictions on businesses that relocate outside the U.S.

Mr. Lew is responding to a recent flurry by U.S.-based companies to merge with or acquire foreign companies so they can relocate their headquarters overseas. These so-called inversions allow companies to reduce their overall tax burden by avoiding America's 35% corporate tax rate—40% on average including state levies—on income they earn overseas. The combined U.S. rate is double the average in Europe and is more than triple the 12.5% rate in Ireland.

The pace of inversions has been picking up as more CEOs conclude that President Obama isn't serious about tax reform. These executives have a fiduciary duty to their shareholders, and they can't cede a permanent tax advantage to their global competitors. So they decide to move.

Pfizer tried to do an inversion earlier this year with its attempt to buy U.K. drug maker AstraZeneca, which rejected the offer. And this week two U.S.-based drug firms, AbbVie Inc. and Mylan Inc., announced plans for foreign mergers that would allow them to move overseas. The Journal counts 19 inversion deals announced since the beginning of last year, with 14 this year alone.

There's a liberal canard that the U.S. statutory tax rate is high but companies pay only a few cents on the dollar in reality. That's true in some cases in which companies are able to exploit loopholes (especially green-energy subsidies) or deduct big losses over several years. We've written about Whirlpool, for example.

But the claim is obviously false in general given deals like Mylan's proposed acquisition of overseas generic drug businesses from Abbott Laboratories. The new combined company will be based in the Netherlands, where the corporate tax rate is a high but not insane 25%. Even a 10-percentage-point rate cut is enough of an incentive to relocate.

Mr. Lew doesn't know much about economics or he'd realize that his rush to block these inversions will have the perverse effect of driving even more deals in the coming months. If CEOs think Congress will close the inversion possibility, and that tax reform is dead until Mr. Obama leaves office, more of them will decide to move while they still can.

As for "economic patriotism," Mr. Lew also doesn't understand that foreclosing inversions would only make U.S. firms more vulnerable to foreign takeovers. If executives can't reduce their tax disadvantage by moving abroad, more of them will choose to serve shareholders by offering to be purchased by foreign firms that have a lower worldwide tax rate. And even if CEOs resist a foreign offer, shareholders might prefer the higher after-tax return on their investment. Who's the real Benedict Arnold of tax policy here?

Even Mr. Lew admits in his letter to Mr. Camp that the "best way to address this situation is through business tax reform that lowers the corporate tax rate, broad-

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ens the tax base, closes loopholes, and simplifies the tax system." But he and the President have done nothing to engage Congress on the issue, despite bipartisan interest.

Former Senate Finance Chairman Max Baucus worked hard on reform, but Mr. Obama showed no interest and the Montana Democrat finally gave up and agreed to be U.S. Ambassador to China. In February Mr. Camp introduced the most thorough-going reform in a generation of both corporate and personal taxes, but the White House ignored it. The basic problem is that Mr. Obama and his political factotum Mr. Lew care less about reform to make America competitive than they do about raising more tax revenue to spend.

As Mr. Camp put it to us in an email on Wednesday: "We've been down this road before, and we know companies will continue to do this as long as our tax rates remain the highest in the world. America cannot compete as long as our tax policy is so dysfunctional. Even the Secretary admits that tax reform is the right answer, so let's do it. Send me your plan."

Don't hold your breath, Congressman. Mr. Lew's letter shows that the White House now wants to exploit the inversion flurry as an election year opportunity to demagogue business. Look for Majority Leader Harry Reid to rush a bill to the Senate floor on Mr. Lew's punitive proposals and then try to use the votes in Senate races this fall. Republicans ought to turn the tables and assail Democrats for supporting the world's most punitive corporate tax rates and driving capital and jobs overseas.

A real agenda for "economic patriotism" would support a tax policy to make America competitive again as a destination for global investment and job creation. But that's going to take a less cynical President and Treasury Secretary.