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Data on Top 20 Corporations Using Repatriation Amnesty Calls into Question Claims of New Democrat Network

The twenty companies that repatriated the most offshore profits under the temporary repatriation amnesty enacted by Congress in 2004 now have almost triple the amount of profits “permanently reinvested” (i.e., parked) overseas as they did at the end of 2005.

The figures call into question a recent report from the New Democrat Network (NDN), which assumes away the likelihood that a tax amnesty for repatriated offshore profits ultimately encourages corporations to shift more of their profits and operations to other countries.

The Top 20 Repatriators Under the 2004 “Jobs Act” — Then and Now

04 rank	Company	“Permanently Reinvested Foreign Profits”								2004 jobs act repatriations		
		2010	2009	2008	2007	2006	2005	2004	2003	available	repatriated	% repat.
1	Pfizer	\$ 48.2	\$ 42.5	\$ 76.4	\$ 72.1	\$ 50.4	\$ 34.5	\$ 60.4	\$ 44.4	\$ 60.4	\$ 40.1	66%
2	Merck	40.4	31.2	24.7	23.0	16.7	11.4	33.0	29.1	33.0	25.2	76%
3	Hewlett-Packard	21.9	16.5	12.9	7.7	3.1	1.2	15.0	14.4	15.0	14.5	97%
4	Johnson & Johnson	37.0	32.2	27.7	23.7	17.9	11.9	18.6	14.8	18.6	10.8	58%
5	IBM	31.1	26.0	21.9	18.8	14.2	10.1	19.7	18.1	19.7	9.5	48%
6	DuPont	12.6	11.3	10.1	9.6	7.9	7.0	13.9	13.5	13.9	9.1	66%
7	Bristol-Myers Squibb	16.4	16.5	15.4	14.1	11.3	8.4	16.9	12.6	16.9	9.0	53%
8	Eli Lilly	19.9	15.5	13.3	8.8	5.7	4.1	2.8	9.5	9.5	8.0	84%
9	PepsiCo	26.6	21.9	17.1	14.7	10.8	7.5	11.9	8.8	11.9	7.5	63%
10	Procter & Gamble	30.0	25.0	21.0	17.0	16.0	10.3	16.8	14.0	16.8	7.2	43%
11	Intel	11.8	10.1	7.5	6.3	4.9	3.7	7.9	7.0	7.9	6.2	78%
12	Coca-Cola	20.8	19.0	14.1	11.9	7.7	5.1	9.8	8.2	9.8	6.1	62%
13	Motorola Solutions	1.3	2.4	2.9	4.1	4.0	2.8	5.6	5.1	5.6	4.6	82%
14	Abbott Laboratories	26.8	20.6	14.9	12.3	7.3	5.8	7.9	5.2	7.9	4.3	54%
15	Dell	12.3	11.3	9.9	10.8	7.9	5.7	2.9	5.1	5.1	4.1	80%
16	Morgan Stanley	5.1	4.0	6.0	5.8	4.4	3.9	5.8	4.9	5.8	4.0	69%
17	Citigroup	32.1	27.3	22.8	21.1	14.7	10.6	10.0	5.8	10.0	3.2	32%
18	Oracle	16.1	13.0	8.9	7.2	5.7	3.0	2.2	4.8	4.8	3.1	65%
19	McDonald's	11.0	9.2	6.7	6.7	5.0	3.9	5.5	4.2	5.5	3.0	55%
19	EMC	5.1	4.3	3.7	2.7	1.9	1.1	3.2	3.2	3.2	3.0	94%
	Totals	\$ 426.5	\$ 359.7	\$ 337.9	\$ 298.4	\$ 217.5	\$ 152.0	\$ 269.6	\$ 232.7	\$ 281.1	\$ 182.5	65%

Addendum:
% of all 2004 jobs act repatriations that were by these 20 companies 75%

Notes: Pfizer figures include the recently acquired Wyeth, which repatriated \$3.1 billion under the “Jobs Act” in 2005. Merck figures include the recently acquired Shering-Plough, which repatriated \$9.3 billion in 2005.
Source: Corporate annual reports.

The corporations, which include well-known companies like Pfizer, Merck, Hewlett-Packard, Coca-Cola, Citigroup, McDonald's and many others, collectively had \$269.6 billion in "permanently reinvested earnings" parked offshore (largely in tax havens) at the end of 2004. This offshore hoard shrank as expected in 2005, to \$152 billion, after these companies repatriated most of it in response to the tax amnesty. But their offshore hoard immediately climbed to new highs in the years afterwards, reaching \$426.5 billion in 2010.

Citizens for Tax Justice compiled data from annual reports filed by the top twenty corporations ranked by the amount of offshore profits they repatriated (brought back to the U.S.) under the tax amnesty enacted as part of the 2004 "Jobs Act."

The 2004 repatriation amnesty allowed U.S. corporations to bring profits of their foreign subsidiaries to the U.S. while paying hardly any of the U.S. taxes that would normally apply. The amnesty applied a tax rate of only 5.25 percent to repatriated offshore profits, as opposed to the 35 percent corporate tax rate that normally applies.

The non-partisan Congressional Research Service (CRS) later concluded that the amnesty measure failed to create jobs, which was Congress's ostensible intention.¹ CRS concluded that the repatriated profits largely went to the companies' shareholders in the form of increased stock dividends and stock buybacks, rather than towards job creation an investment in the U.S.

The non-partisan Joint Committee on Taxation (JCT) recently found that a repeat of the 2004 repatriation amnesty would result in a loss of \$79 billion in federal revenue over ten years.²

NDN's Report Assumes Away Likely Responses by Corporations and Relies on Flawed Data

The recent report from the New Democrat Network (NDN) claims that JCT's estimate of a revenue loss over ten years is incorrect and that the result would actually be a revenue gain over ten years. The report has several fatal flaws.

The NDN report assumes away the likelihood that corporations would respond to a tax amnesty for repatriated profits by shifting more profits offshore in anticipation of the next amnesty.

One reason JCT believes tax amnesties for repatriated offshore profits cause a loss of revenue is that they cause corporate leaders to anticipate that Congress will provide such measures again in the future. This encourages corporations to shift even more profits and operations to other countries with the expectation that they will be able to bring those profits back to the U.S. at a super-low tax rate the next time Congress provides such an amnesty.

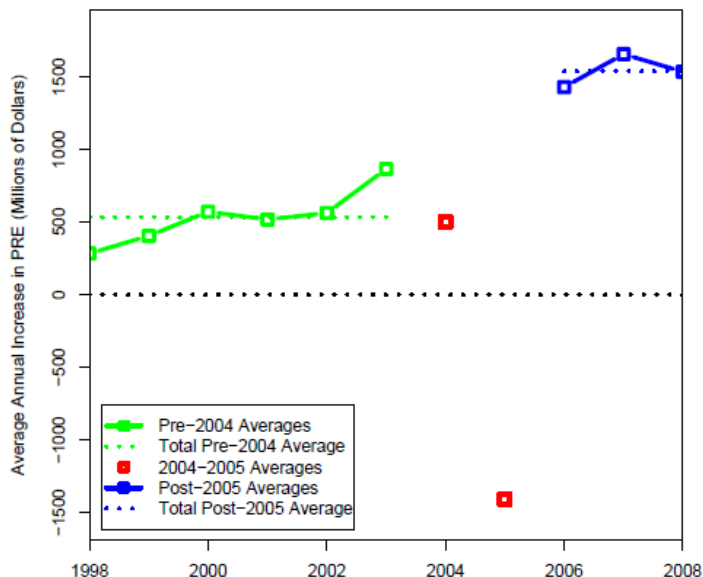
¹ Donald J. Marples & Jane G. Gravelle, "Tax Cuts on Repatriation Earnings as Economic Stimulus: An Economic Analysis," May 27, 2011. http://www.ctj.org/pdf/crs_repatriationholiday.pdf

² Joint Committee on Taxation, analysis for Representative Lloyd Doggett, April 15, 2011. http://www.ctj.org/pdf/jct_repatriationholiday.pdf

The table on page one illustrates that these companies are, in fact, holding more profits offshore than ever. Citizens for Tax Justice is not alone in coming to this conclusion.

A 2010 study by Thomas J. Brennan of Northwestern University School of Law examines 73 U.S. corporations that accounted for most of the offshore profits repatriated under the 2004 amnesty.³ He finds that in each of the years following the amnesty, these corporations increased their “permanently reinvested earnings” at a far higher rate than they did in years preceding the amnesty.

The nearby graph is taken from Brennan’s study. It shows that the average increase in PRE (permanently reinvested earnings) by the 73 corporations dropped dramatically when the companies repatriated these profits during the amnesty, and then jumped to the highest level ever after the amnesty.



In challenging JCT’s projection that a large portion of the offshore profits repatriated under the tax amnesty would otherwise have been repatriated in later years and taxed at the normal rate, the NDN report relies on faulty data.

Another reason JCT projected long-term revenue losses resulting from the repatriation amnesty is that some of the profits brought back to the U.S. and subject to the maximum rate of 5.25 percent rate under the amnesty would have otherwise been repatriated eventually under the normal rules, including the normal corporate tax rate of 35 percent.

Offshore profits of U.S. corporations are typically repatriated through a dividend payment made by the offshore subsidiary to the U.S. parent company. The NDN report uses IRS data to show that dividends paid from foreign corporations to U.S. corporations did not decline after the 2004 tax amnesty ended.

But the authors of the NDN report admit (on page 10) that the IRS data they use is not confined to those dividends paid by offshore subsidiaries to U.S. parent companies, which is the relevant figure.

³ Thomas J. Brennan, “What Happens After a Holiday?: Long-Term Effects of the Repatriation Provision of the AJCA,” Northwestern Journal of Law and Social Policy, Vol. 1 (Spring 2010). http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1699757

Also, the NDN report does not prove that any portion of the unexpected increase in dividend payments following the amnesty was actually a result of the amnesty. An endless number of economic factors could cause foreign companies (including offshore subsidiaries of U.S. corporations) to pay higher dividends. The sharp increase in foreign activity by U.S. multinationals is one such reason. This in no way disproves the conclusion that offshore subsidiaries would have paid even more in dividends to their U.S. parent companies had the amnesty never been enacted.

The NDN report makes no real effort to refute studies concluding that the benefits of the 2004 amnesty went to shareholders rather than towards job creation.

The NDN authors acknowledge (on pages 5-6) studies finding that the amnesty was associated with increased dividends and stock buybacks. The study they cite to support a link with increased investment and job creation is a *survey of tax executives* of the corporations benefiting from the amnesty.

Given that the 2004 measure ostensibly required the companies to use the repatriated earnings for approved uses like investment and job creation, it seems highly unlikely that their tax executives would admit that the funds had been used for anything else. However, even the U.S. Chamber of Commerce has conceded that because money is fungible, there really is no way to require a corporation to do any particular thing with a certain pot of earnings.⁴

As the CRS report mentioned above concluded, the profits repatriated under the 2004 amnesty were used to fund increased stock dividends and stock buybacks. They did not lead to additional job creation or investment in the United States.

Rewarding corporations that shift profits to offshore tax havens is a terrible policy. It was tried before, it failed, and it should not be repeated.

⁴ Martin Regalia, Senior Vice President for Economic and Tax Policy, U.S. Chamber of Commerce, comments during panel discussion titled, "Corporate Tax Reform: Is It in the Air?" March 25, 2011.