

## How low can you go? US pharma already shouldered light tax burden



[Jonathan Gardner](#)

Proposals to cut the US corporate tax rate by up to 20 percentage points spotlights an open secret among biopharma finance departments: nobody pays the statutory 35% rate.

US-domiciled big pharma companies have paid an average effective rate of about 20% over the past three years as many have taken advantage of subsidiaries in lower-tax countries to shield their earnings from American taxation, among other mechanisms used to reduce government payments (see table below). President Donald Trump's proposal to drop the corporate rate to 15% raises the question of how low the tax take can fall while still funding government - and whether such a change would have much of an effect on big pharma.

### 35%? Not really

A look at US groups' effective tax rates shows how much the burden varies by company and that none comes within 10 percentage points of the statutory rate. A surprise on this list is not that heavy spenders on R&D Amgen and Celgene had the lowest rate but that Biogen, also a big spender, paid the highest.

US big-cap biopharmas' reported effective tax rates				
	2016	2015	2014	3-year average
Amgen	15.7%	13.0%	7.6%	12.1%
Celgene	15.7%	20.8%	14.1%	16.9%
Eli Lilly	18.9%	13.7%	20.3%	17.6%
Gilead	21.1%	16.4%	18.8%	18.8%
Johnson & Johnson	16.5%	19.7%	20.6%	18.9%
Bristol-Myers Squibb	23.8%	21.5%	14.8%	20.0%
Pfizer	13.4%	22.2%	25.5%	20.4%
Merck & Co	15.4%	17.4%	30.9%	21.2%
Abbvie	24.0%	23.0%	25.0%	24.0%
Biogen	25.1%	24.4%	25.1%	24.9%
Average	19.0%	19.2%	20.3%	19.5%

Source: Company 10-K filings with SEC

Abbvie and Pfizer's position near the high end of the scale explains their eagerness to seek lower-tax domiciles through M&A inversions to Irish-domiciled Shire and Allergan, respectively. Those transactions, of course, were effectively scuppered by changes to Treasury Department rules.

In addition to chopping the corporate rate, Mr Trump's plan would also grant a tax "holiday" for overseas cash - although the rate has yet to be worked out with congressional leaders. This proposal will be pleasing to Johnson & Johnson, Amgen and Merck, the top three foreign asset holders ([Repatriation windfall could spur US M&A, November 15, 2016](#)).

A move to "territorial payment" - in essence, taxing only earnings derived from US-based business, as most other countries do - in theory would reduce the incentive for companies to leave cash in the hands of their

overseas subsidiaries. Of course, many companies still distribute assets among their subsidiaries to minimise their tax liabilities, which is why Ireland, with its 12.5% rate, is such an attractive destination for biopharma.

At 15%, the US would have [among the lowest rates](#) among OECD countries, tied with Canada, Latvia and Poland. This could make the US a place to shift income in order to shield companies from higher tax jurisdictions.

### **Race to the bottom**

Despite biopharma companies like Amgen, Celgene, Merck and Pfizer reporting effective tax rates at near 15% or less, they could still go lower than that should the White House tax plan go into effect. Eric Toder, co-director of the Urban-Brookings Tax Policy Centre, points out that they currently pay the 35% rate on profits reported in the US, so a reduction in that rate will naturally flow through to companies' effective tax rates.

"The way they get their effective tax rates down now is by keeping profits overseas," Mr Toder said.

The extent to which companies might reduce their effective tax rates will depend on their responses to US policy, he said – for example, how much of their overseas cash they bring back and the level of the repatriation levy.

Mr Toder also points out that a US move to territorial taxation without any safeguards will not solve the problem of income shifting to reduce global corporate tax rates. "When people have proposed territorial taxation, they have proposed certain safeguards to counter income shifting," he said. "If you take [the White House proposal] literally, it's just territorial. They're not proposing some kind of minimum tax."

In essence, the US would be joining a race to the bottom. While this might please investors who see profits rise as tax expenses fall, it will not help the government fund essential programmes – such as the basic research that drives biopharma innovation.

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