Some Big Corporations Don't Pay Taxes, Either

By BRUCE BARTLETT

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On Sept. 13, Harold Hamm, chairman and chief executive of Continental Resources, testified before the House Committee on Energy and Commerce about achieving energy independence. He said his company, an oil producer, could produce much more if federal policies didn't hold it back. Among them is the tax system. Mr. Hamm said his company paid an effective tax rate of 38 percent.

One often hears corporate executives make such assertions. Republicans always accept them at face value, because to them there is no public policy problem that isn't caused by high taxes. Tax cuts are their solution to just about every problem. Cutting the corporate tax rate is among the key measures that all Republicans favor to stimulate growth.

One problem with the Republican theory is that many big corporations actually pay little, if any, federal income tax. For example, The New York Times has reported that General Electric, the sixth-largest corporation in the United States, earned $14.2 billion in 2010, but disclosed in federal filings that it had no federal tax liability.

This disparity between the high taxes that many people say they believe American corporations pay and the low rate they actually pay applies to Mr. Hamm's business as well. Citizens for Tax Justice, a labor-backed group, looked at Continental Resources' financial reports, where it must disclose tax payments, and found that in 2011 it paid a federal tax rate of 1.9 percent on profits of close to $700 million. Its average federal tax rate over the last five years was 2.2 percent.

According to Citizens for Tax Justice, G.E. paid a federal tax rate about the same as Continental Resources' over the last 10 years – an average of 2.3 percent, including four years in which it received a net tax refund.

When poor people pay no federal income taxes and get a government refund because of such programs as the earned-income tax credit, Republicans are incensed, implying that if only the poor paid their fair share that the deficit would disappear. They never suggest that corporations like G.E. pay their fair share, even though the G.E. example is far from unique, according to Citizens for Tax Justice.

The complexity of the corporate income tax makes it easy to evade and avoid American taxes. Edward D. Kleinbard, a professor of tax law at the University of Southern California, points to the easy availability of tax havens, where corporations artificially book their profits and avoid taxation on them.

I had a personal experience with such tax havens recently. I needed a copy of Microsoft Word for a new computer and went to Microsoft.com to buy and download it. But my credit card company refused the charge. When I checked to see what the problem was, I was told that the credit card company was suspicious because the charge went to a company based in Luxembourg.

Luxembourg is, of course, a notorious tax haven. Arranging to realize its profits in such places has long been a tax-avoidance policy practiced by Microsoft and other big corporations. According to a July 22 report by the London-based Tax Justice Network, as much as $32 trillion of global financial wealth may be parked in the world's tax havens.

Even without taking account of offshore tax havens and other aggressive tax avoidance activities, corporate taxes are grossly overrated as a cost of doing business in the United States. According to the Office of Management and Budget, the corporate income tax raised just 1.2 percent of the gross domestic product last year. Even in 2007, before the economic crisis, it raised only 2.7 percent of G.D.P. This is well down from the 1950s, when the corporate tax raised twice as much revenue as a share of G.D.P.

Republicans often point to the statutory corporate tax rate in the United States as evidence that American companies are overtaxed. Indeed, it is true that the United States has the highest statutory central government tax rate among members of the Organization for Economic Cooperation and Development. The combined statutory rate in the United States is 39.2 percent, including state taxes, compared with an average of 29.6 percent in the O.E.C.D.

However, as a Sept. 13 report from the Congressional Research Service explains, looking only at the statutory rate is highly misleading as an indication of the burden of the corporate tax. That is because it does not take account of the many tax expenditures that reduce the effective tax rate paid by American corporations. In 2011, they reduced corporate tax revenues by $159 billion.

As a consequence, the weighted effective tax rate – taxes as a share of profits – is 27.1 percent in the United States, which is below the 27.7 percent average rate of O.E.C.D. nations. The weighted average marginal tax rate on corporations – the tax on each additional dollar earned – is 20.2 percent in the United States, compared with 18.3 percent in the O.E.C.D.

For these reasons, the investor Warren Buffett says it's "a myth that American corporations are paying 35 percent or anything like it."

The Congressional Research Service report also notes that in the United States corporate taxes as a share of G.D.P. were the third lowest among all O.E.C.D. countries in 2009 – 1.7 percent of G.D.P. (including state taxes), compared with an O.E.C.D. average of 2.8 percent of G.D.P. Even

Ireland, which conservatives often point to has having an exemplary corporate tax system, raised corporate taxes equal to 2.4 percent of G.D.P.

One continuing confusion in the corporate tax debate is who, exactly, pays it. Corporations, after all, are not entities separate from their owners (shareholders), employees and customers. They are the ones who pay the tax, but economists have been debating about who and to what degree for a century.

A Treasury Department report in May concluded that 82 percent of the corporate tax is borne by capital, with 18 percent borne by labor. Contrary to popular belief, none of the tax is shifted to consumers, which stands to reason because prices are set by producers that pay different tax rates or may even be tax-exempt.

The private Tax Policy Center published a study on Sept. 13 with similar conclusions. It estimates that 20 percent of the corporate tax is paid by labor, 20 percent is borne by the "normal" return to capital – roughly, the risk-free interest rate – and 60 percent by the "supernormal" return to capital. The latter is the extent to which the return to corporate stock has historically exceeded the risk-free interest rate.

One driving force for tax reform is a widespread belief, on both sides of the aisle, that the statutory corporate tax rate should be reduced. That is fine as long as the tax base is broadened by eliminating loopholes. But the idea that cutting the tax rate is a magic bullet to jump-start growth is nonsense, because corporate taxes are, in fact, quite low.