

## Tax Laws Chasing Companies Away

**Houston Chronicle**

April 13, 2010

BY ROBERT J. HERBOLD AND SCOTT S. POWELL

### Energy corporations relocating to business-friendly countries

It's easier than ever for corporations to move operations overseas. And if the federal government doesn't realize this soon, more and more companies may follow the example of Dallas-based EnSCO International and reincorporate overseas. EnSCO's decision, announced last month, subject to approval by the majority of its shareholders, is the latest in a series of moves by energy companies to leave the U.S. and relocate in Europe.

In the age of the Internet, with technology converging around the globe and engineering talent abundant in many nations, multinationals and even smaller companies can readily shift research and development, product-development, manufacturing and overall management out of the United States. Increasingly, executives are finding it tough to justify keeping major parts of their business here — and being incorporated in America is looking more and more like a bad bet.

A shocking thought for sure. A shrinking corporate tax base couldn't be happening at a worse time with the widening U.S. deficit and the difficulty of floating more debt. Recently, our largest creditors, notably China and the OPEC countries, signaled reluctance to add to their U.S. dollar holdings.

After Japan, America has the world's highest corporate-tax rate — and Washington shows no willingness to bring those rates down. Indeed, President Obama's administration recently proposed taxing the foreign profits of U.S.-based multinationals even when those profits aren't repatriated. Yes, it backed away when executives threatened to move offshore. But Obama's aides openly plan to revisit the idea in a broader tax overhaul sometime next year.

This and other threats of new taxes from Washington — such as the billions of dollars in levies anticipated under the "cap-and-trade" scheme — have prompted a dozen major U.S. companies to move offshore in the last year.

Prior to EnSCO, a number of Houston-based S&P 500 companies, such as Weatherford International, Nabors Industries, Noble Corp., Transocean International and Cooper Industries completed or were in the latter stage of changing their domicile of incorporation — with Switzerland and Ireland as the most popular relocation destinations.

One board member explained with a question: "What shareholder would ever vote to incorporate in a country that taxes your world-wide income?"

But it isn't just taxation that is chasing corporations out of the country. Another top problem is access to talent.

America now spends more per capita on public education than any other OECD country — but its students test in the bottom 10 percent in math and science. In the yearly "Nation's Report Card" (generated by the National Assessment of Educational Progress), fewer than 25 percent of U.S. high school seniors scored "proficient" in either math or science — for the last 10 years running.

This is a national disgrace.

Washington forms commission after commission to find solutions, but nothing much happens. Why? Because no one wants to take on the teachers unions, which are a major source of campaign cash. Teacher quality is a key factor in academic success, and everyone knows it. But the unions don't want performance appraisals or merit pay. Many top-performing educators get frustrated and opt out — leaving behind the less competent who keep the bar low.

Our failing schools leave the nation short on technical talent, so many firms try to recruit foreign students. But with anti-immigrant regulations and sentiment coming from Washington, many corporations find it easier to hire abroad — moving the job overseas, or creating a new position that could have been a job here.

Then there's the growing "political risk" in this country. Executives now worry about the future threats associated with excessive (and rising) government activism and a hostile business culture. And this is particularly true for the oil and gas industry.

A culture that turns a blind eye to government failure, but is quick and unrelenting in blaming society's ills on business, will naturally and subliminally embrace socialist solutions. And when one intervention fails, the government tries to fix its errors with yet more intervention — a sort of creeping socialism that keeps on compounding waste and inefficiency.

So the nationalization of General Motors was followed by "Cash for Clunkers" and successive bailouts of GMAC, GM's financing arm. The TARP rescue of banks was followed by government micromanagement, wage controls, punitive salary caps for top talent and interference with hiring practices.

Such populist government meddling in our financial sector is sure to drive talent offshore. In fact, Deutsche Bank CEO Josef Ackerman recently commented, "We can't wait to get our hands on all that top talent."

Americans must realize that the geese that lay the golden eggs can take flight. Most U.S.-born board members and executives of multinationals want their native country to be successful. But their fiduciary duty obliges them to face reality and respond to global competitors who increasingly have an edge in taxation, access to educated talent and a more supportive political and cultural climate. Taking no action, and losing out to the competition, breaches their duty to shareholders.

Washington needs to wake up and see the big picture. Now, more than ever, it's all about maintaining the tax base and creating jobs. We can't afford to chase corporations out of America.

---

Robert Herbold is the retired COO of Microsoft and managing director of the Herbold Group. Scott Powell is managing director of AlphaQuest and a visiting fellow at the Hoover Institution.