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Apr. 25, 2013

SeaWorld Entertainment Inc. is a hot commodity on Wall Street.

The Orlando-based theme-park owner raised $700 million last week in an initial public offering that exceeded even its own expectations. The company's share price then surged even higher, rising more than 20 percent in its first week of trading.

One reason investors may be so excited about SeaWorld: The company is paying almost nothing in income taxes and doesn't expect to start doing so anytime soon.

"We won't be a taxpayer for several years to come," SeaWorld President and Chief Executive Officer Jim Atchison told prospective investors shortly before the company went public. "That's a great advantage for us."

SeaWorld is avoiding income taxes even as business is booming. The company's pre-tax profits more than tripled in 2012 to $117 million. Total sales across its 11 parks climbed 7 percent to more than $1.4 billion.

Tax-reform advocates say SeaWorld symbolizes a broken U.S. tax system. The federal government gave away as much money in corporate tax breaks in 2011 — $181 billion — as it raised in corporate-tax revenue, according to a new report by the Government Accountability Office in Washington.

The losses drain state treasuries, too. Florida and other states lean heavily on the federal tax code when calculating their own corporate-income taxes.

SeaWorld says it is acting within "both the letter and spirit" of all tax laws.

"SeaWorld has an obligation to act in the best interests of its shareholders," the company said in a written statement. "In claiming deductions specifically added to the tax code by our elected representatives for the purpose of encouraging

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Senior lawmakers in both political parties have begun discussing broad corporate-tax overhaul, fueled in part by reports of minimal tax payments by major American businesses, from SeaWorld to General Electric Co. to Apple Inc. But agreeing on changes will be difficult, as individual companies and industries lobby to preserve preferential treatment.

While refraining from discussing SeaWorld directly, some members of Florida's congressional delegation say reforms are necessary.

A spokeswoman for Rep. Alan Grayson said in an emailed statement that the Orlando Democrat thinks that "all profitable U.S. companies should pay U.S. income taxes."

"They should not have two separate set of books (one for shareholders and a different one for the IRS)," spokeswoman Lauren Doney added.

The single biggest driver of SeaWorld's tax savings is a break known as "accelerated depreciation."

When companies invest in things like equipment and machinery, the value of those assets declines over time as they age. Accelerated depreciation allows companies to write off the value of those investments faster for tax purposes than the value actually declines.

For example, SeaWorld and other theme-park owners are allowed to deduct the value of rides in as few as seven years, even though those attractions typically remain in service for far longer. SeaWorld Orlando's "Journey to Atlantis" opened 15 years ago, yet it remains one of the marine park's marquee rides.

The result is that companies get to take bigger tax deductions — and therefore pay fewer taxes — in the earlier years of their investments.

In theory, companies that use accelerated depreciation will have to pay higher taxes

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2009 sale to the private-equity firm Blackstone Group. Analysts say that deal was structured in such a way that much of the $2.3 billion purchase price was allocated to tax-depreciable assets.

Altogether, SeaWorld has amassed $556 million worth of tax credits based on losses it has reported — for tax purposes — since the sale to Blackstone, which remains SeaWorld's majority shareholder. The cushion should ensure that SeaWorld will not have to pay any significant amount in cash for income taxes over the next few years, though Atchison would not say how long he expected those credits to last.

The credits will not begin expiring until 2029, according to SeaWorld's regulatory filings.

In those filings, SeaWorld said it paid a tiny amount of income tax in 2012: $767,000, which works out to less than 1 percent of its pre-tax profit. The company did not disclose whether that represented federal or state tax payments.

Accelerated depreciation is among the biggest corporate subsidies in the U.S. tax code. The break saved companies a collective $76.1 billion in 2011, according to the U.S. Government Accountability Office. That accounted for 42 percent of the total savings of all "corporate tax expenditures" that the agency studied.

Supporters of accelerated depreciation say it encourages companies to make capital investments, which in turn create jobs. Allowing them to defer their taxes frees up money they can spend on more investments.

But critics say it is unnecessary. Rebecca Wilkins, senior counsel for federal tax policy at Citizens for Tax Justice, a nonprofit group that advocates higher corporate taxes, says companies need to make capital investments to grow their businesses and shouldn't need a tax break to encourage that.

SeaWorld itself is a case study on the importance of investment. When beer brewer

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“Companies don’t invest because of tax breaks,” Wilkins said. “They invest because they can make money off the investment.”

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