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May. 30, 2016

The U.S. Treasury Department's continuing attack on inversions claimed its latest victim this week, ending the deal between US based fertilizer maker, CF Industries, and its smaller Dutch counterpart, OCI. The recently announced proposed tightening of the rules relating to the tax deductibility of interest payments also led last month to the termination of Pfizer's proposed $160bn takeover of Ireland based Allergan.

There seems to be somewhat of a general misconception that it is the "inversion" itself, in other words the acquisition of a U.S. corporation by a foreign acquirer, which creates the favorable tax structure for multinationals. In reality, it is only *following* the inversion that an inverted U.S. company looks to reduce its taxable income in the US, often through post-acquisition restructuring or refinancing, and regularly via internal debt structures. The most recent efforts of the Treasury Department take a different approach by focusing on the foundational aspect – interest deductibility – of these transactions.

However, by focusing not on the unique aspects of inversions (being the acquisition of a U.S. corporation by a foreign acquirer) but, instead, on interest deductibility, the Treasury Department will likely have a more sustained impact on the viability of inversion transactions. It is also having a collateral impact on all foreign based multinationals with subsidiaries in the US. The logical result will be an increased US tax burden for these companies. Whether this was an intended outcome for the Treasury Department cannot be said with certainty, but it is hard to believe that they were not aware of this likely impact.

How it will affect foreign investment into the U.S. will only become clear with time.

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