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MARKETS

The Tax Inversion Wave Keeps Rolling

Proposed acquisition of Depomed shows how companies that move to lower-tax jurisdictions overseas use this advantage in corporate takeovers



Bridges span the River Liffey in Dublin. Ireland has a 12.5% corporate tax rate, compared with 35% in the U.S. *PHOTO: AIDAN CRAWLEY/BLOOMBERG NEWS*

By **LIZ HOFFMAN**

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When Horizon Pharma PLC completed its takeover of a small, closely held Irish drug company last fall, its timing was fortuitous.

Horizon, formerly of Illinois, closed its deal with Dublin-based Vidara Therapeutics International Ltd. in September three days before U.S. regulators cracked down on these tax-beneficial corporate migrations known as inversions. Had the pair been slower to the altar, they would have been subject to tighter rules that make such overseas mergers more difficult and less lucrative.

Having squeaked through where others failed— AbbVie Inc., for example, abandoned its \$54 billion takeover of Shire PLC in the wake of the new rules—Horizon is now pressing its tax advantages through deal making, following a well-worn path laid by other corporate inverters before it.

Their deals show that, despite Washington's efforts last year to protect the U.S. corporate tax base, revenue keeps trickling out. Since the Treasury rules went into effect last fall, 55 U.S. companies have been sold to or targeted by foreign buyers, many of those acquirers formed by inversions themselves, according to FactSet.

On Tuesday, now-Dublin-based Horizon, which makes drugs for rare diseases, joined the club, going public with a \$1.75 billion, all-stock takeover bid for Depomed Inc., a California-based maker of pain treatments. Shareholders of Depomed, which earlier rejected two private overtures from Horizon, would own about 25% of the combined company.

Horizon Chief Executive Officer Timothy Walbert said in an interview that buying Depomed, would generate “significant operating and tax synergies,” or savings. Depomed paid 38% of its profits in taxes last year, according to regulatory filings. Horizon is targeting a tax rate in the low 20s over the longer term. Ireland has a corporate tax rate of 12.5%.

Horizon and other inverted companies are using their new, lower tax rates to turbocharge corporate takeovers. Applying those rates, often in the midteens, to profits of companies in the U.S., with a federal corporate rate of 35%, can yield extra savings on top of those traditionally wrung from mergers. Moreover, unlike the U.S., Ireland and most other countries only tax profits earned in-country, giving companies the freedom and incentive to shift income to still-lower-tax jurisdictions.

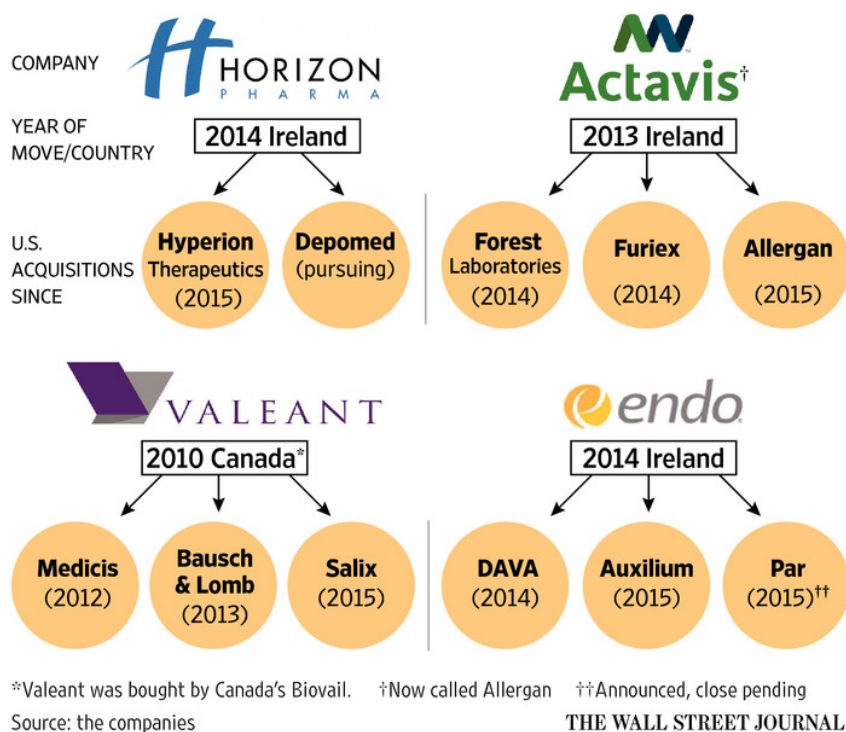
Horizon has subsidiaries in Ireland, Luxembourg and Bermuda and engages in “transfer pricing,” a legal way of steering profits to lower-tax jurisdictions, to keep its taxes low, according to securities filings.

Over the past couple of years, the combination of low foreign tax rates and creative financial structuring, layered on top of a global mergers-and-acquisitions boom, has been potent. A new class of global companies—identified by corporate suffixes of PLC and Ltd.—are increasingly looking at U.S. companies—Corp.'s and Inc.'s—for takeovers and using their tax edge to help outbid rivals.

A lower tax rate “gives you synergies that allow you to compete when it comes to valuing

Corporate Chameleons

Several U.S. companies have moved their legal residence to lower-tax countries and then snapped up U.S. firms.



assets,” Mr. Walbert said. “We think about it as leveling the playing field. Endo, Actavis, all these other companies are operating at a lower tax rate.”

Two years ago, Actavis was a small New Jersey-based generic-drug maker when it bought Ireland’s Warner Chilcott PLC and redomiciled in Ireland. After a series of acquisitions, including Forest Laboratories Inc. for \$25 billion and Allergan Inc. for \$66 billion, the company, now called Allergan PLC, is one of the largest pharmaceutical firms in the world, with a market value of \$120 billion

and revenue of \$23 billion.

Others to use inversions as a platform for acquisitions include Endo International PLC, which redomiciled in Ireland last year and has since committed more than \$11 billion to U.S. acquisitions, including its recent deal for Par Pharmaceutical Holdings Inc. Mylan NV, which inverted to the Netherlands in February, in April launched a roughly \$31 billion takeover bid for Perrigo Co.

Pharmaceutical companies are a natural fit for inversions and the deals that follow, given the sector’s global reach and reliance on patents, which are more easily transferred among subsidiaries than, say, factories or oil rigs.

But the trend is more widespread. Last week, Willis Group Holdings PLC, the insurance brokerage once domiciled in the U.K. that decamped to Bermuda in 2001 and then to Ireland in 2010, struck a deal to buy Towers Watson & Co., the U.S. professional-services firm. Willis has an effective tax rate of about 22% and Towers Watson’s is 35%, according to the most recent filings. CEOs of both companies said taxes were a side benefit and not a driver of the deal.

For Horizon, the tax savings are part of a broader rationale for the deal, Mr. Walbert said. The combined company would have 13 marketed medicines, nearly twice the number Horizon currently sells. Many of Depomed's products have patent protection through at least 2022, according to analysts at Leerink Partners LLC, who wrote in an investor note that buying Depomed would add about 10% to Horizon's 2016 earnings per share.

For now, its target is reluctant. Depomed privately rejected the \$29.25-a-share offer in a June 25 letter to Mr. Walbert and did so again publicly Tuesday. Depomed said the bid undervalues its prospects, particularly the unrealized fruits of its April acquisition of the U.S. distribution rights to a treatment for diabetes-related nerve pain.

On Tuesday, Depomed's shares gained 39%, to \$28.62, a slim discount to the offer price, suggesting investors are optimistic about an eventual tie-up.

Depomed would be Horizon's second large U.S. takeover since completing its inversion. In May, it paid \$956 million for Hyperion Therapeutics Inc., whose drugs treat a rare metabolic condition. That deal promises fewer immediate tax savings, though, as Hyperion had paid just a total of \$350,000 in taxes over the previous three years, in part by applying past operating losses and tax credits, filings show.

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