February 08, 2005

Many firms avoid state income taxes

By Jim Balow

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Merrill Lynch earned nearly $8.8 billion in profits from 2001 to 2003. But the Wall Street brokerage giant, which has offices in West Virginia, avoided paying any state corporate income taxes in any of those three years, a study released last week shows.

BB&T, the North Carolina bank that bought One Valley Bancorp and its dominant West Virginia market share a few years ago, earned $1.4 billion but paid no state income taxes here or elsewhere, according to the study by Citizens for Tax Justice.

These companies aren't alone. The Washington-based group found 71 companies in the Fortune 500 managed to avoid paying state income taxes in at least one of the three years examined.

By examining annual reports, the group learned 252 Fortune 500 companies paid a combined net state tax rate of 2.3 percent on their U.S. profits. But because the average state tax rate is 6.8 percent, these corporations avoided paying two-thirds of their taxes, or $41.7 billion.

The group has been studying corporate income taxes at the federal level for years, but decided this year to break out state taxes, said report co-author Bob McIntyre, director of Citizens for Tax Justice.

"We thought it would be interesting to see which states were losing the most and to find out which corporations were involved — name a few names," he said. "Toys R Us is more interesting than 0.2 percent."

Companies use a variety of schemes to shelter profits from taxes, exploiting loopholes in state and federal laws, the report says.

As a result, small businesses and private citizens — you and me — are forced to pay more to support state government services.

“There could be millions, if not hundreds of millions, of dollars that are not being paid and fall on the rest of us because of these apparent loopholes,” said Steve White, director of the Affiliated Construction Trades Foundation.

“If big corporations don’t pay, we pay,” White said.

Although companies have always used accountants to try to save money, widespread use of tax loopholes is a fairly recent phenomenon, said report co-author Bob McIntyre, director of Citizens for Tax Justice.

“They really flowered in the mid-’90s,” he said Monday. “In the olden days, corporations used to brag about how much they used to pay in federal and state taxes. It’s a different day.” The report outlines several of the techniques.

“The most notorious is the Toys R Us shelter,” McIntyre said.

Under this scheme made famous by the toy giant, a company sets up a subsidiary that owns its logos and trademarks in a tax-haven state like Delaware. Stores pay royalties for the logos to the subsidiary and deduct the cost as business expenses, thus cutting profits. Meanwhile, the tax-haven state doesn’t tax the royalties.

Another scheme is asset transfer, under which a company spins off profit-making assets to a state that doesn’t tax them. Wisconsin auditors found most of that state’s banks did just that with their loans, moving them to Nevada.

“If small-town banks in Wisconsin had discovered how to use Nevada subsidiaries to cut taxes, it’s a safe bet that big multistate and multinational banks have figured it out, too — possibly explaining why financial institutions like BB&T, MBNA and Bank of New York are among the corporations with the lowest effective corporate tax rates in our study,” the report says.

“The gist of the shelters is the same,” McIntyre said. “You find something you can move on paper — money for banks, trademarks, research — and move it to a state that doesn’t tax that entity. Then you charge your units to use that trademark or research.”

Every state has lost corporate taxes in the last 15 years, the study says, some more than others. West Virginia's effective tax rate fell 47 percent in that period, more than the national average of 40 percent.

New Jersey stands out, with a decline of just 6 percent. "New Jersey won't allow an array of the shelters they use to move money around," McIntyre said.

Because they don't have to, corporations do not disclose how much they pay in state taxes to individual states, McIntyre said. "We wish they did. In fact, we asked them to."

Among other companies that avoided all state income tax in at least one of the three years examined are many familiar names, including several that do business in West Virginia — Manpower, AT&T, FPL Group (which owns the Tucker County wind power site under a subsidiary), Advance Auto Parts, Foot Locker, Avon, NiSource (parent of Columbia Gas Transmission Corp.), Charles Schwab, IBM, Time Warner and Marriott International.

"How much of that is in West Virginia?" White asked about the estimated $41 billion in avoided taxes. "Three quarters of a billion dollars?"

White said the state Legislature is likely to look at changing the state tax structure again this year. "I don't know that we have the right tools to do so," he said. "I don't know if we can answer, 'How much are we not collecting?'

"This is just one tax. Clearly, there is an ongoing shift of taxes from corporations to citizens," White said. "That is not a good trend."

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