

# Business groups sue over new US limit on tax-driven foreign buyouts

REUTERS, New York/Washington

Two business groups sued the Obama administration on Thursday over a crackdown on US companies that try to reduce their US taxes by rebasing abroad in a process known as inversion.

The US Chamber of Commerce and the Texas Association of Business filed a lawsuit in Texas federal court that said a regulation from the US Treasury Department in April exceeded what the law allows the department to do.

The lawsuit was the first to challenge a rule on inversion. The deals are legal, but have drawn criticism from some politicians who say US companies that are avoiding their tax obligations. A wave of inversions largely ended after Treasury moved against the deals.

The rule targeted by the lawsuit is aimed at transactions involving non-US companies, such as Ireland-based drugmaker Allergan Plc that have grown through a series of acquisitions.

It helped scuttle what had been a planned \$160 billion combination of Allergan and US drugmaker Pfizer Inc in what would have been the largest inversion ever.

"Treasury and the IRS ignored the clear limits of a statute, and simply rewrote the law unilaterally. This is not the way government is supposed to work in America," Tom Donohue, head of the chamber, a business lobbying group, said in a statement.

A Treasury spokeswoman said in a statement that its action was based on strong policy interests and clear legal authority. It said the department would continue to defend the regulations to slow the erosion of the US corporate tax base.

Lawyers with expertise in tax law have said such a lawsuit would face an uphill battle against Treasury, which has a strong record in court. The 1867 Anti-Injunction Act says that, in general, no legal challenge can be brought against a tax until it is assessed. So the administration of President Barack Obama could argue that the law bars a lawsuit for now.

"I would be quite surprised if this case survived the obvious defense by the Justice Department that this is an attempt to short-circuit the regular course of tax collections," said Edward Kleinbard, a law professor at the University of Southern California.

The chamber and the Texas Association of Business argue, though, that the Treasury and the tax-collecting Internal Revenue Service must still follow a different law, the Administrative Procedure Act (APA). That law spells out the process agencies must follow before they impose regulations.

According to the lawsuit, the Treasury rule violated the APA because Treasury lacked authority to act, its rule was arbitrary and capricious, and it did not permit public notice and comment.

Allergan and Pfizer are not parties to

the lawsuit, but the lawsuits cites their failed merger as an example of the harm done by the rule. Representatives of the companies declined to comment on the litigation.

Pfizer is a member of the chamber and the Texas Association of Business. Allergan is a member of the chamber and the Greater Waco Chamber of Commerce, which in turn is a member of the Texas group, the lawsuit said.

The two drug companies "would actively explore merger opportunities" if the rule were set aside, the lawsuit said. Dozens of US companies have done inversions since 1983, when the first such deal was completed. Treasury has periodically moved to curb the flow of deals because inversions erode the US corporate income tax base.

Treasury unveiled a package of rules in April meant to further discourage the deals, which typically involve a US multinational buying a smaller company in a foreign country with lower corporate taxes and then rebasing there, if only on paper.

Inverting US companies usually leave their core US operations at home, transferring only their legal tax domicile to the home country of the acquired company. Recent popular destinations for the deals are Ireland, Britain and Canada.

Fast food chain Burger King inverted to Canada last year; medical technology group Medtronic to Ireland in 2014; drug maker Mylan Inc to The Netherlands that same year.



**Khurshid Irfan Chowdhury, deputy managing director of Transcom Beverages Ltd, and Mustafizur Rahman, deputy managing director of Bashundhara Group, exchange the signed papers of a deal at a programme. Transcom Beverages became the exclusive beverages partner of Kebab Turki Baba Rafi, a kebab chain introduced by Bashundhara Group in Bangladesh. The kebab chain has 1,200 outlets all over the world.**

## Bitcoin not money, judge rules in victory for backers

AFP, New York

Bitcoin, a Florida judge says, is not real money. Ironically, that could provide a boost to use of the crypto-currency which has remained in the shadows of the financial system.

The July 22 ruling by Miami-Dade Circuit Judge Teresa Pooler means that no specific licence is needed to buy and sell bitcoins.

The judge dismissed a case against Michel Espinoza, who had faced money laundering and other criminal charges for attempting to sell \$1,500 worth of bitcoins to an undercover agent who told the defendant he was going to use the virtual money to buy

stolen credit card numbers.

Espinoza's lawyer Rene Palomino said the judge acknowledged that it was not illegal to sell one's property and ruled that this did not constitute running an unauthorized financial service.

"He was selling his own personal bitcoins," Palomino said. "This decision clears the way for you to do that in the state of the Florida without a money transmitting license."

In her ruling, Pooler said, "this court is unwilling to punish a man for selling his property to another, when his actions fall under a statute that is so vaguely written that even legal professionals have difficulty finding a singular meaning." She added that "this

court is not an expert in economics," but that bitcoin "has a long way to go before it is the equivalent of money."

Bitcoin, whose origins remain a mystery, is a virtual currency that is created from computer code and is not backed by any government. Advocates say this makes it an efficient alternative to traditional currencies because it is not subject to the whims of a state that may devalue its money to cut its debt, for example.

Bitcoins can be exchanged for goods and services, provided another party is willing to accept them, but until now they been used mostly for shady transactions or to buy illegal goods and services on the "dark" web.

## JPMorgan denies having planned to buy Italy's BMPS

AFP, New York

US bank JPMorgan Chase denied Friday that it ever intended to buy troubled Italian rival BMPS, as people close to the alleged deal had reported.

"This is not accurate and was never under consideration," a JPMorgan spokesperson told AFP.

Sources who asked to remain anonymous had indicated Wednesday that Jamie Dimon, chief executive of the largest US bank by assets, and Daniel Pinto, the London-based head of JPMorgan's investment and finance department, were behind the plan to bail out the Banca Monte Paschi di Siena unveiled last week.

Their first idea, the sources said, was the outright purchase of the heavily indebted BMPS, which the European Central Bank last week cited as the financial institution most susceptible to bankruptcy according to EU bank stress tests.

JP Morgan had hesitated to pursue a bid, fearing US authorities would take an unfavorable view of a US bank rescuing a European firm.

The bank also feared a backlash to the acquisition in Italy and in Europe where big banks are not favorably viewed in the press, the other source explained.

## Curb adulteration of fertilisers



**Analysts take part in a roundtable on the balanced use of fertilisers, at The Daily Star Centre in Dhaka yesterday. The newspaper organised the event in association with Katalyst, Naafco (Pvt) Ltd and Society for Media and Suitable Human-communication Techniques.**

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The main driving force of the economy is agriculture, which comprises 16 percent of the country's gross domestic product. Of the agricultural income, crop agriculture alone accounts for 55 percent.

The boost to farm yield would be crucial in the coming years as the country loses 0.66 percent of farm land to mainly non-farm uses while 20 lakh are added to the population every year.

In his presentation, Kader said the rate of adulteration goes up in case of privately imported fertilisers.

Some locally produced fertilisers, such as gypsum, are also highly adulterated: they contain higher amounts of heavy metals, which is alarming for soil health.

Speakers called for a balance between chemical and organic fertilisers to ensure fertility of the soil and high yield of crops.

Balanced fertilisation means application of plant nutrients in sufficient amounts, appropriate forms and ratios while maintaining the presence of sufficient organic matter in soil.

Kader said his study showed that crop yield shot up 80 percent thanks to the balanced use of fertilisers. "Farmers are using highly imbalanced mix of fertilisers."

Crop plants require 16 nutrient elements for their optimum growth, development and yield.

Most of the farmers are not using any micronutrient -- copper, iron, manganese,

molybdenum, zinc, boron -- because of their high prices and lack of motivation.

Mixed fertiliser is very good in terms of balanced fertilisation, which was widely accepted by the farmers in the early 2000s.

But due to serious adulteration, mixed fertiliser is now almost out of market and farmers have lost their interest, he said.

The government should work to encourage farmers to use balanced fertiliser as well as organic fertiliser, a number of experts said.

Shahidul Islam, former director general of Bangladesh Agricultural Research Institute, said the government closely monitors the production and distribution of fertilisers that are most important and give subsidies.

But it does not look after fertilisers that provide micronutrients, which contribute greatly to the quality of crops.

Islam also said the era of single fertiliser is long gone, as new crops have arrived. "We have to put emphasis on quality control," he added.

Bangladesh should try to use the available cow-dung in an effective way, said Delawar Hossain Mollah, chief scientific officer of the Soil Resource Development Institute or SRDI, a government organisation.

Md Nazmul Hasan, principal scientific officer of SRDI, said balanced fertiliser requires the right mix of all fertilisers.

MA Mannan, a professor at Bangabandhu Sheikh Mujibur Rahman Agricultural University,

suggested forming groups of farmers as it is easy to convince them when they are united.

Debraj Agarwal, chief executive of Annapurna Agro Service, said the government should provide subsidies to organic fertilisers like it does for urea.

Yusuf Alam, product manager of ACI Fertiliser, which accounts for half of the organic fertilisers manufactured in the country, said the public private partnership framework can be utilised to promote organic fertiliser.

DAE's Das also said farmers need one or two mobile apps, instead of thousands, where they would get all the information they need.

MM Huda, director of Naafco, called for ensuring fair price for the farmers.

Reaz Ahmad, assignment editor of The Daily Star, moderated the roundtable.

Ahmad said the cropping intensity is 215 percent in Bangladesh, which might be the highest in the world.

"It signifies how much soil mining we are doing to meet our demand. We have to keep this in mind and think what we are giving back to the soil."

"It can be done through application of a certain dose of chemical fertilisers, organic or other forms. We have to judiciously apply them so there is no overdose," he added.

Shahnnoor Wahid, special supplements editor of The Daily Star; and Jannat Adib Chowdhury, manager of Katalyst, also spoke.



**Professor Dr Rowshan Ara Begum, president of Obstetrical and Gynecological Society of Bangladesh, attends the launch of Microlon—a third generation ultra-low dose oral contraceptive pill of Nuvista Pharma Ltd—on Friday.**

NUVISTA PHARMA

## Nokia to cut deeper as merger spills red ink

AFP, Helsinki

Finnish telecom equipment manufacturer Nokia said Thursday it aims to accelerate savings after costs of absorbing former French-American rival Alcatel-Lucent pushed it into a second-quarter loss.

The net loss of 665 million euros (\$741 million) was mostly due to the 600-million euro restructuring charge as it integrates Alcatel-Lucent, which it acquired last year. Under the move, Nokia aimed to expand from telecoms networks to internet networks and "cloud" services after abandoning the mobile handset market.

Chief executive Rajeev Suri said in a

statement that Nokia is "now targeting 1.2 billion euros in total cost savings to be achieved in full year 2018", up from the previous target of more than 900 million euros.

In a conference call with reporters, Suri said the cost cuts would come in a "combination of all kinds of cost savings", not revealing if more job cuts were to follow.

"That has to do with the synergy savings that we already have talked about but also normal continuous improvement and transformation within our overall business," Suri formulated.

In April Nokia said it was opening talks with staff representatives in some 30 countries about cutting jobs, to gain

synergies from merging with Alcatel-Lucent.

French labour unions then revealed Nokia was seeking 4,300 job cuts in Europe, including 411 in France, but so far the company has only confirmed that 1,032 jobs will be cut in Finland.

Nokia said net sales fell by 11 percent from the same period last year on a comparable basis, to 5.6 billion euros.

The operating margin fell to 6.0 percent from 7.0 percent, with Nokia putting the blame on needing to increase risk provisions over a Latin American client undergoing court-supervised restructuring. It did not name the client, which is believed to be Brazilian operator Oi.