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Investigation reveals Ron Johnson enjoys significant tax benefits from investment in Ireland based DP Lenticular, while protecting foreign tax havens in Senate.

MIDDLETON - A bombshell investigation just released by the Huffington Post reveals that Senator Johnson and his company Pacur, have profited from an off shore tax haven in Ireland. The shocking revelation comes after Johnson opposed measures to make it harder for companies to avoid paying taxes, likely protecting his own bottom line.

Key Points

- *Johnson has a 9.9 percent stake in DP Lenticular, a Dublin-based company, according to his Senate financial disclosure for 2015 ...The 9.9 percent stake is just below a cutoff that requires private citizens to disclose their ownership.*

- *"DP Lenticular's website describes it as the "only European company dedicated solely to the promotion and sales of Lenstar and EcoLens lenticular sheets and roll stock,"...For a company managing the sale of American-made products across a continent, however, DP Lenticular has awfully few people running its operations. The company had only one employee…"*

- *Johnson enjoys significant tax benefits for investing in Ireland. He began accruing those benefits the moment he invested his money there, and they have likely only grown over time.*

- *"It poses a major ethics issue — an actual one as well as an apparent one," said Craig Holman, who, as a lobbyist for Public Citizen, pushes for tighter ethics rules. "That is the type of tax dodging that, even if done legally, has major political implications for an office holder."*

- *'"On its face it is consistent with the sort of aggressive tax planning that companies do to lower their global tax bills through diverting income to tax haven affiliates,' said Edward Kleinbard, a professor at the University of Southern California School of Law and former chief of staff of Congress' Joint Committee on Taxation."*

- *"Daniel Shaviro, a professor of taxation at New York University School of Law, agreed with Kleinbard's assessment. "It certainly does look like a very standard way of shifting profits to a tax haven," Shaviro said. "For someone like him, it is chump change but maybe he has a lot of such things."'*

Read the Huffington Post story below.

Huffington Post: GOP Senator Invests In Irish Company That Resembles A Tax Shelter

By: Daniel Marans
October 28, 2016

Sen. Ron Johnson (R-Wis.), who has defended corporate tax dodging throughout his Senate career, owns part of an Irish company that bears some of the hallmarks of a tax avoidance scheme.

Johnson has a 9.9 percent stake in DP Lenticular, a Dublin-based company, according to his Senate financial disclosure for 2015. His investment is worth between $250,001 and $500,000 and he earned $5,001 to $15,000 in dividend income from the company that year, the disclosure indicates.

The 9.9 percent stake is just below a cutoff that requires private citizens to disclose their ownership. Americans who own 10 percent or more of a foreign business must report it to the federal government. Now that Johnson is a member of Congress, he has to report all of his assets.

If the senator, who is up for re-election in November, is in fact involved with a tax shelter, he has a personal stake in the debate over how to deal with the wave of U.S. companies hiding profits overseas to avoid taxes. Johnson's proposed solution to that problem is to lower companies' U.S. tax burden.

"It poses a major ethics issue an actual one as well as an apparent one," said Craig Holman, who, as a lobbyist for Public Citizen, pushes for tighter ethics rules. "That is the type of tax dodging that, even if done legally, has major political implications for an office holder."

Johnson does not support measures that would make it harder for companies to perform "corporate tax inversions" a popular tactic in which corporations reincorporate in low-tax countries like Ireland. Instead, he claims that inversions and other tax avoidance methods can only be remedied by lowering companies' tax burdens, removing the incentive for tax dodging.

American Profits — Irish Taxes

Johnson is a successful businessman something he proudly advertised when he ran for Senate in 2010. In the late 1970s, he helped found Pacur LLC, a specialized plastics manufacturer based in Oshkosh, Wisconsin. After buying the company in 1997, he served as its CEO until winning a Senate seat in 2010. His brother Barry now runs the company.

DP Lenticular's website describes it as the "only European company dedicated solely to the promotion and sales of Lenstar and EcoLens lenticular sheets and roll stock," two plastic products manufactured exclusively by Pacur. DP Lenticular also says its "customers are currently based all over Europe, with the strongest markets being Germany, Italy, France and Poland." That suggests it is a large enterprise that manages sales transactions and related operations across Europe.

For a company managing the sale of American-made products across a continent, however, DP Lenticular has awfully few people running its operations. The company had only one employee in 2014 and 2013, according to a 2014 financial statement DP Lenticular provided the Irish government.

And DP Lenticular is worth about $2.5 to $5 million, based on the reported value of Johnson's 9.9 percent share. That is a lot of money for one worker to generate let alone one whose pay and benefits equate to about $44,000 a year.

There is no evidence immediately available that DP Lenticular is a subsidiary of Pacur. But the company's value and operations relative to its number of employees raise the possibility that it is a shell company designed to avoid taxes, according to tax experts.

Spain-based holding company Dodecinvest SL, from which Johnson purchased his share of DP Lenticular, had no employees or revenue and paid no corporate income taxes in 2011, the most recent year for which company records are available. And Johnson bought his shares in December 2007, shortly after Dodecinvest SL took over DP Lenticular, then known as Lenticular Plastic Company of Europe.

It poses a major ethics issue an actual one as well as an apparent one.Craig Holman, Public Citizen

While conceding there is not enough information about DP Lenticular to determine what is going on financially, "on its face it is consistent with the sort of aggressive tax planning that companies do to lower their global tax bills through diverting income to tax haven affiliates," said Edward Kleinbard, a professor at the University of Southern California School of Law and former chief of staff of Congress' Joint Committee on Taxation. (Kleinbard, one of the country's leading tax experts, has donated to the campaign of Russ Feingold, Johnson's Senate challenger.)

Daniel Shaviro, a professor of taxation at New York University School of Law, agreed with Kleinbard's assessment.

“It certainly does look like a very standard way of shifting profits to a tax haven,” Shaviro said. “For someone like him, it is chump change but maybe he has a lot of such things.”

“That does not mean it is illegal or doesn’t work under U.S. law,” he added.

Daniel Pierret, owner of Dodecinvest SL, the holding company that owns DP Lenticular, denied that the company needed more than one employee. He claimed DP Lenticular only buys and sells Pacur’s products, outsourcing transportation and logistics to companies that specialize in it. It also employs freelancers, he said.

The 2001 document incorporating Lenticular Plastic Company of Europe, DP Lenticular’s predecessor, claims the company would manage major transportation and logistics operations, such as providing “facilities for storage, warehousing, carriage and distribution of merchandise by land, sea or air.”

Notwithstanding the 2001 “memorandum of association,” Pierret insisted that neither DP Lenticular nor its predecessor ever engaged in these activities.

Pierret claimed Johnson invested in the company to help it and cement a relationship with a key distributor not to avoid taxes.

“When you are in business with someone, there are two ways to make the relation durable,” Pierret said. “You can sign a contract between two companies. The other way is if you are interested in the company that distributes your product, [investing in it] is better than a contract.”

Why Ireland?

Regardless of his motivation, Johnson enjoys significant tax benefits for investing in Ireland. He began accruing those benefits the moment he invested his money there, and they have likely only grown over time.

Ireland taxes ordinary corporate earnings at a rate of 12.5 percent, and the country does not tax dividends earned by U.S. investors as they are leaving the country. Taxing foreigners' dividends before they bring them back to their home country is the default rule in many countries, including the United States.

Ireland's tax code has a few other quirks. In recent years, large U.S.-based multinational corporations, like Apple and Google, have used shell companies in Ireland as a way to move profits to lower- or no-tax jurisdictions through methods enabled by Irish legal loopholes or through favorable agreements with the Irish government. One tactic employed by Google, nicknamed the "Double Irish with a Dutch sandwich," involved moving profits from one Irish company to a Dutch affiliate, and then to a second Irish subsidiary based in Bermuda or another tax haven where its earnings are not taxed at all. The mechanism allowed the company to escape any significant taxation in Ireland, notwithstanding the country's already low taxes.

The Irish government closed the loophole enabling this particular scheme, but companies that were already benefiting from the tax break can continue to do so until 2020.

Johnson must pay federal and state income taxes on the dividends he reported receiving from DP Lenticular, which he can bring to the U.S. without paying Irish taxes. (A dividend is the share of a company's earnings that its board of directors may decide to pay out to its shareholders.)

If Johnson's share of DP Lenticular's earnings exceeds the dividend he reported, however — which would be common, because companies typically do not pay out 100 percent of their earnings as dividends — he could benefit handsomely. (Earnings not paid out as dividends are typically held as cash or reinvested directly in the company.)

Those retained earnings are either subject to Ireland’s 12.5 percent corporate tax rate or have been transferred elsewhere.

“If less than 100 percent of the earnings of DP Lenticular are distributed every year, Johnson is saving himself tax money,” Kleinbard said.

On its face it is consistent with the sort of aggressive tax planning that companies do to lower their global tax bills through diverting income to tax haven affiliates.Edward Kleinbard, University of Southern California School of Law

The Johnson campaign declined to comment on Johnson’s investment in the Irish company.

Michael Tyler, a spokesman for the Feingold campaign, said in a statement that the foreign company is an example of “Senator Johnson gaming the system for billionaires and multi-millionaires like himself.”

“Not only is he protecting a system that works for corporations and special interests at the expense of Wisconsin families, we now find out he’s personally benefitting from that system too. It’s no wonder Sen. Johnson’s spent the past six years in Washington protecting loopholes for corporations that ship jobs and production overseas he’s been taking advantage of those very loopholes himself,” Tyler said.

When a reporter asked Johnson about the investment after a debate with Feingold at Marquette University Law School earlier this month, the senator denied the investment was a tax avoidance strategy.

“We set up a sales agency over there to export a product,” Johnson said. “You’ve seen our cards: We export product through a sales agency.”

Personal Gain Meets Public Policy

Johnson is running for re-election at a time when a wave of so-called corporate inversions, mainly to Ireland, has sparked public outrage about corporate tax dodging. It is a problem that he has blamed on a U.S. corporate tax code that is not “competitive.”

Under current law, a U.S. company’s acquisition of a foreign firm allows it to “invert” or reincorporate in the country of the company it purchased if the transaction results in the new foreign shareholders owning at least 20 percent of the larger new corporation. In effect, the vast majority of a corporation’s ownership and operations can remain in the United States, even as it is considered foreign for tax purposes, allowing it to enjoy lower rates.

In recent years, a number of historic American corporations like Burger King have taken advantage of the inversion loophole in order to reduce their tax burdens.

The Obama administration’s Treasury Department has passed some rules to make corporate tax inversions harder, including regulations rolled out in April that appear to have dissuaded pharmaceutical giant Pfizer from buying Ireland-based Allergan.

There are limits to Treasury’s actions , however, and progressive tax advocates are calling for additional measures.

Democratic presidential nominee Hillary Clinton wants to require a company to have at least 50 percent new shareholders if it wants its acquisition of a foreign competitor to result in tax benefits. She also proposes levying an “exit tax” on companies seeking to invert. Both provisions would require new congressional legislation.

Feingold, Johnson’s challenger, who held the seat from 1993 to 2010, supports a bill introduced by congressional Democrats that would raise the foreign ownership threshold to 50 percent for an inversion to occur. He would also consider an exit tax, his spokesman said.

Johnson, meanwhile, has said the only solution to the problem is to discourage companies from inverting by lowering U.S. corporate tax rates. Officially, the United States has among the highest corporate tax rates in the developed world, but thanks to copious loopholes, many profitable corporations pay no federal taxes at all .

Even as Democrats call for greater enforcement, they appear to share Johnson's belief that the corporate tax system is due for an overhaul, even if they are sure to disagree on what that would look like.

But Johnson does not appear to see greater enforcement in the near term as part of the equation.

He nonetheless responded to news that Wisconsin-based Johnson Controls (no relation) would be inverting to Ireland in January by claiming that the company had no choice.

"They either invert, they actually buy a foreign company, or a foreign corporation will buy them, because it's math," Johnson said on CNBC . "$150 million is what they're going to save. If you're a responsible corporate manager, how can you not take that type of move?"

For USC's Kleinbard, this analysis misses the point.

"The U.S. system allows firms to put on a different party hat and become Irish when their earnings are really American," he said. "While it's true that firms will use rules to their advantage, it is the job of Congress to stop that when it is inappropriate."

Read the full article here.