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For media inquiries
contact Anne Singer
(202) 299-1066
www.ctj.org

GE Tries to Change the Subject

General Electric Cites its “Deferred” (Not Yet Paid) Taxes and Taxes Paid to Foreign Governments, Offers No Evidence It Paid More in U.S. Corporate Income Taxes

On February, 27, 2012, Citizens for Tax Justice released new information about General Electric’s federal income taxes over the past decade. Based on information revealed in GE’s just-released annual report for 2011, along with earlier GE reports, we calculated that over the past decade, GE has paid federal income taxes equal to, at most, a negligible 1.8 percent of its \$80 billion in pretax U.S. profits.

In response to inquiries from journalists about our numbers, GE’s press office issued a short statement designed to divert attention from its tax-avoiding ways. (The company’s complaints and obfuscations focus solely on what CTJ reported about GE’s 2011 taxes; our analysis covered ten years, of which 2011 was only the most recent.) What follows is our reply to GE.

GE says: “CTJ is an interest group with a clear agenda.”

Reply: GE itself obviously has a clear agenda, just a rather different one than CTJ’s.

GE says: “the reports they [CTJ] file are biased and inaccurate.”

Reply: CTJ is a nonpartisan group whose tax research is widely respected by policymakers, analysts and the media. We have been publishing detailed corporate tax studies for almost 30 years. Our 1984 report, revealing that many large, profitable corporations, including GE, were paying no federal income taxes, is credited with persuading President Reagan and the U.S. Congress to move forward with the monumental Tax Reform Act of 1986, which closed corporate loopholes, increased corporate taxes by a third, and put companies like GE back on the tax rolls.

All of the information we published in our recent release came from GE’s 10K annual reports. These reports are signed by GE’s top executives to be accurate under penalty of perjury (unlike statements from GE’s press office).

GE says: “GE’s 2011 tax rate in the U.S. was 25 percent.”

Reply: To compute this so-called 25 percent tax rate, GE counted the \$1.0 billion in “current” taxes that it did pay in 2011 plus the \$1.5 billion in “deferred” taxes that it did not pay. CTJ did not count GE’s unpaid, deferred taxes. If these deferred taxes are ever paid, then they will show up in GE’s current taxes, and we will report them as paid.

GE says: “GE’s global rate was 29 percent in 2011, up from 7 percent in 2010.”

Reply: CTJ’s report was about GE’s federal income taxes on GE’s U.S. pretax profits. The fact that GE paid \$4.7 billion in current taxes to foreign governments on its foreign profits in 2011 is not relevant to the small amount it paid to the U.S. government.

GE says: “GE paid \$2.9 billion in income cash taxes in 2011 across all of its tax jurisdictions, including payments in the U.S.”

Reply: “Cash” income taxes represent cash outlays for income taxes during a given year. These figures do not necessarily line up with the taxes actually due for a given year, generally because of short-term timing differences. For most companies, over time “cash” income taxes generally line up well with the “current income taxes” that companies report (and that CTJ relies upon). The one important exception is that “cash” income taxes are net of tax benefits claimed on tax returns that are unlikely to be allowed on audit (and include the cost of paying back those unlikely tax benefits when and if they are disallowed). “Current” income taxes do not reflect these unlikely tax benefits unless and until they are allowed (see below).

In any event, “cash” income taxes are presented only as a total worldwide figure, and are not broken down geographically. Since GE reported \$4.7 billion in current *foreign* income taxes for 2011 (much more than its total reported “cash” income taxes), it seems clear that its 2011 “cash” tax payments were mostly to foreign governments.

GE says, regarding its extremely low federal income tax rate over the past decade (at most 1.8 percent): Absolutely nothing. That’s probably because GE has nothing to say to contradict the figures in its own (under-oath) annual reports.

Tables:

The tables that follow show all the figures that CTJ transcribed from GE’s annual reports, and the simple calculations that we performed on them to compute GE’s effective tax rate.

The first table summarizes the last 10 years. The second table provides details for each year, 2002 through 2011.

In our report, we noted that the 1.8 percent 10-year federal income tax rate we calculated for GE is the maximum that GE could have paid in federal income taxes over that period. The reason that GE probably paid less than that is that GE has taken some aggressive tax positions over the years that it does not expect the IRS to allow on audit. These aggressive positions reduced GE’s actual tax payments, but because GE is likely to have to pay the money back, GE cannot, by accounting standards, include them in the tax figures they report to the SEC annually (except in its reported “cash income taxes paid”). If the IRS does allow some of the tax benefits, GE will report them as reductions in “current income taxes” in the future.

Both tables provide information on these unpaid taxes of GE’s (which GE says almost all are unpaid federal income taxes).

GE, all the numbers, 2002-11 totals, \$-billions		
Figures from GE's 10Ks:		
1	Pretax profits	
2	US	\$ 82.3
3	Foreign	116.7
4	Total	199.0
5	Current income taxes (taxes paid or payable)	
6	US federal	\$ 1.5
7	State	2.1
8	Foreign	24.7
9	Total	28.3
10	Deferred income taxes (taxes not yet paid)	
11	US federal	4.8
12	State	na
13	Foreign	na
14	Total	-0.1
15	Worldwide "cash" income taxes paid (no geographic breakdown)	24.2
16	Unrecognized tax benefits at end of 2011 (excluding interest & penalties)	3.9
CTJ Calculations		
Tax rates based on current income taxes:		
17	US pretax profit after deducting current state tax (2 – 7)	\$ 80.2
18	Current federal income tax (6)	1.5
19	Effective federal income tax rate (18/17)	1.8%
20	US pretax profit before deducting state tax (2)	82.3
21	Current state income tax (7)	2.1
22	Effective state income tax rate (21/22)	2.5%
23	Foreign pretax profit (3)	116.7
24	Foreign current income tax (8)	24.7
25	Effective foreign income tax rate (24/25)	21.2%
26	Worldwide pretax profit (4)	199.0
27	Current federal, state & foreign income taxes (9)	28.3
28	Effective worldwide income tax rate (27/28)	14.2%
ADDENDUM: Tax rates based on "cash" income taxes:		
29	Worldwide pretax profit (4)	199.0
30	Worldwide cash income taxes (15)	24.2
31	Worldwide "cash" income tax rate (30/29)	12.2%
32	Difference between worldwide current income tax and worldwide "cash" income tax (9 – 15) (cash income taxes are \$4 billion lower than current income taxes)	\$ 4.0
33	Unrecognized tax benefits at end of 2011 (excluding interest & penalties); these tax benefits reduced income taxes paid, but are not reflected as reducing current income taxes reported in GE's 10Ks because they are likely to be disallowed by the IRS.	\$ 3.9
Treating all unrecognized tax benefits as U.S. federal (as GE says):		
34	US pretax profit after deducting current state tax (17)	\$ 80.2
35	Federal "cash" income taxes [= worldwide "cash" income taxes less current state & foreign taxes (15 – 7 – 8) or federal current income taxes less unrecognized tax benefits (18 – 33)]	-2.6
36	Effective federal "cash" income tax rate (35/34)	-3.2%

GE, all the numbers, \$-millions		2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2002-11
Figures from GE's 10Ks:												
1	Pretax profits											
2	US	\$ 9,402	\$ 4,247	\$ 1,667	\$ 4,646	\$ 9,078	\$ 10,154	\$ 10,296	\$ 9,597	\$ 11,090	\$ 12,110	\$ 82,286
3	Foreign	9,176	8,699	11,829	17,271	18,450	14,104	10,882	10,700	8,637	6,963	116,712
4	Total	18,578	12,946	13,496	21,917	27,528	24,258	21,178	20,297	19,727	19,073	198,998
5	Current income taxes (taxes paid or payable)											
6	US federal	1,032	-3,253	-833	-651	64	513	2,755	629	1,244	-33	\$ 1,467
7	State	246	-1	93	8	392	243	222	494	264	111	2,072
8	Foreign	4,657	3,258	2,385	3,027	3,042	1,549	1,910	2,522	1,304	1,061	24,715
9	Total	5,935	4	1,645	2,384	3,498	2,305	4,887	3,645	2,812	1,139	28,254
10	Deferred income taxes (taxes not yet paid)											
11	US federal	1,529	2,099	-2,501	-836	776	1,544	-380	-211	685	2,112	4,817
12	State	344	114	-28	53	-----not reported-----						nr
13	Foreign	-2,076	-1,167	-264	-499	-----not reported-----						nr
14	Total	-203	1,046	-2,793	-1,282	623	1,710	-1,063	-1,702	1,127	2,413	-124
15	Worldwide "cash" income taxes paid (no geographic breakdown)	2,919	2,671	2,535	3,237	2,912	2,869	3,254	1,339	1,539	948	24,223
16	Unrecognized tax benefits at year end (excluding interest & penalties)	3,938	4,114	4,918	4,453	4,268	4,302	-----not reported-----				nr
CTJ Calculations												
Tax rates based on current income taxes:												
17	US pretax profit after deducting current state tax (2 - 7)	\$ 9,156	\$ 4,248	\$ 1,574	\$ 4,638	\$ 8,686	\$ 9,911	\$ 10,074	\$ 9,103	\$ 10,826	\$ 11,998	\$ 80,214
18	Current federal income tax (6)	1,032	-3,253	-833	-651	64	513	2,755	629	1,244	-33	1,467
19	Effective federal income tax rate (18/17)	11.3%	-76.6%	-52.9%	-14.0%	0.7%	5.2%	27.3%	6.9%	11.5%	-0.3%	1.8%
20	US pretax profit before deducting state tax (2)	\$ 9,402	\$ 4,247	\$ 1,667	\$ 4,646	\$ 9,078	\$ 10,154	\$ 10,296	\$ 9,597	\$ 11,090	\$ 12,110	82,286
21	Current state income tax (7)	246	-1	93	8	392	243	222	494	264	111	2,072
22	Effective state income tax rate (21/22)	2.6%	-0.0%	5.6%	0.2%	4.3%	2.4%	2.2%	5.1%	2.4%	0.9%	2.5%
23	Foreign pretax profit (3)	9,176	8,699	11,829	17,271	18,450	14,104	10,882	10,700	8,637	6,963	116,712
24	Foreign current income tax (8)	4,657	3,258	2,385	3,027	3,042	1,549	1,910	2,522	1,304	1,061	24,715
25	Effective foreign income tax rate (24/25)	50.8%	37.5%	20.2%	17.5%	16.5%	11.0%	17.6%	23.6%	15.1%	15.2%	21.2%
26	Worldwide pretax profit (4)	18,578	12,946	13,496	21,917	27,528	24,258	21,178	20,297	19,727	19,073	198,998
27	Current federal, state & foreign income taxes (9)	5,935	4	1,645	2,384	3,498	2,305	4,887	3,645	2,812	1,139	28,254
28	Effective worldwide income tax rate (27/28)	31.9%	0.0%	12.2%	10.9%	12.7%	9.5%	23.1%	18.0%	14.3%	6.0%	14.2%
ADDENDUM: Tax rates based on "cash" income taxes (10 year figures):												
29	Worldwide pretax profit (4)											198,998
30	Worldwide cash income taxes (15)											24,223
31	Worldwide "cash" income tax rate (30/29)											12.2%
32	Difference between worldwide current income tax and worldwide "cash" income tax (9 - 15) (cash income taxes are \$4 billion lower than current income taxes)											4,031
33	Unrecognized tax benefits at end of 2011 (excluding interest & penalties); these tax benefits reduced income taxes paid, but are not reflected as reducing current income taxes reported in GE's 10Ks because they are likely to be disallowed by the IRS.											3,938
GE says that almost all of its unrecognized tax benefits are unrecognized U.S. federal tax benefits. If so:												
34	US pretax profit after deducting current state tax (17)											\$ 80,214
35	Federal "cash" income taxes [= worldwide "cash" income taxes less current state & foreign taxes (15 - 7 - 8) or federal current income taxes less unrecognized tax benefits (18 - 33)]											-2,564
36	Effective federal "cash" income tax rate (35/34)											-3.2%

Note: We adjusted GE's reported pretax profits in 2008-11 to replace the estimated "provisions" for loan losses with actual loan charge-offs less recoveries. These adjustments increased GE's reported U.S. profits by \$1,690 million in 2008 and \$1,879 million in 2009, and reduced GE's reported U.S. profits by \$831 million in 2010 and \$842 million in 2011. Similar adjustments were made to GE's reported foreign profits. These smoothing adjustments avoided distorted spikes in GE's year-by-year tax rates, but the effect on GE's overall 2008-11 U.S. tax rate and 10-year tax rate were trivial. For an explanation of why we think these smoothing adjustments were necessary and proper, see *Corporate Taxpayers & Corporate Tax Dodgers* (Nov. 2011), pp. 66-67, at www.ct.org.