GM Rakes in Big Profits, Avoids U.S. Income Tax

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David Shepardson
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General Motors Co., which has earned more than $13 billion since 2009, said Thursday its worldwide tax rate will increase to as much as 13 percent.

But the Detroit automaker, which reported $1 billion in profits for the first three months of the year, has legally avoided paying U.S. federal income taxes since exiting bankruptcy. And GM likely will pay no income taxes for many more years.

A series of Treasury Department rulings since 2008 let GM use $18 billion in losses — from the "old GM" that was left behind in bankruptcy — to offset any profits.

GM spokesman Jim Cain said the automaker pays "significant" state income taxes, but because of its prior losses doesn't incur federal tax liability. "We did not pay federal income tax last year," he said.

GM isn't alone among automakers that have paid little, if any, federal income taxes in recent years.

Ford Motor Co. has paid relatively low worldwide income taxes in recent years after it lost $30 billion between 2006 and 2008. It, too, has been able to use past losses to offset its profits.

Last year, Ford paid $268 million in worldwide income taxes — up from $73 million — on income of $7.8 billion, excluding $12.4 billion in deferred tax assets. Ford doesn't disclose how much it pays in individual countries, or whether it has paid any U.S. federal income taxes in recent years, spokesman Todd Nissen said.

Chrysler Group LLC, majority-owned by Fiat SpA, doesn't pay any federal income taxes. As a limited liability partnership, it isn't a taxable entity for U.S. federal income purposes. Chrysler's owners are responsible for any U.S. income taxes, though Chrysler does pay state and foreign taxes. Worldwide, Fiat SpA Group paid $700 million in taxes, including $92 million for Chrysler operations, according to its 2011 annual report.

Few paying statutory rate

Few, if any, large firms pay the U.S. statutory corporate income tax rate of 35 percent. And that's drawn protests.

Last month in Detroit, some stockholders interrupted General Electric Co.'s annual meeting. They criticized the company for paying a low tax rate. GE's tax rate in 2010 was 7 percent; in 2009, the tax rate was negative because it lost $32 billion. For 2011, GE said it paid a 25 percent tax rate in the U.S.

GM disclosed Thursday that its effective global tax rate for 2012 will likely be 12 percent to 13 percent, equal to the just-reported first quarter. That 2012 rate is up from a previous estimate of 10 percent.

The automaker's chief financial officer, Dan Ammann, said the rate could still change "due to variations in country-specific profitability and tax liability."

GM had credits totaling $16 billion at the end of 2011, which means it can offset about $48 billion in future income.

Companies routinely use prior-year tax losses to avoid paying taxes in years when they are profitable.

But some experts have criticized the U.S. Treasury's decision as part of its $49.5 billion bailout of GM to allow the company to retain the losses of its predecessor General Motors Corp.

Under the 1986 law, a change in control of a company typically limits the use of tax losses by the company. That's to prevent "trafficking in tax losses," where big profitable companies could buy money-losing firms to reduce their tax bills.

The Treasury has allowed many companies that received big government bailouts to retain tax losses estimated to cost the Treasury more than $100 billion in tax revenue. That includes companies like AIG, Citibank and other banks.

Since the government owned 61 percent of GM after it exited bankruptcy, the credits should not have transferred, some say.

"It was basically just ignoring the law," said J. Mark Ramseyer, a Harvard law school professor who wrote a 2011 paper on the Treasury's decision to exempt GM.

GM kept about $45 billion in tax losses and valued them on its books at $18 billion in 2009.

"Had the president tried to give GM $18 billion forthrightly, voters might have complained. By hiding the gift in an obscure tax section, he reduced that electoral scrutiny," Ramseyer and Indiana University business professor Eric Rasmusen wrote.

Treasury officials reject criticism. They say the law was intended to prevent corporate raiders from unfairly using tax losses, not from letting GM keep its tax losses. "Allowing these companies to keep their (tax losses) made them stronger businesses, helped attract private capital and further stabilized the overall financial system," said Emily McMahon, the Treasury's acting assistant secretary for tax policy.

GM said it had total worldwide income tax expense of $216 million in the first three months of 2012 — including $74 million for GM Financial — over $137 million in the same period last year.

Losses also benefit Ford

Even though Ford's effective tax rate for 2012 will be around 32 percent, it still won't be paying large cash taxes for several years, Ford says.

The Dearborn-based automaker said its reduction in first-quarter earnings was in part attributed to its higher tax liability.

Ford said as of Dec. 31, it had carry-forward losses that will allow it to offset $15.6 billion in future taxable income.

Chrysler is different than its rivals. Its predecessor (known as Chrysler LLC, and 80.1 percent owned by Cerberus Capital Management LP) was a limited-liability company classified as a partnership for U.S. federal income tax purposes.

The Auburn Hills automaker exited bankruptcy in June 2009 as part of a $12.5 billion bailout as Chrysler Group LLC.

Unlike GM, prior-year U.S. tax losses racked up by old Chrysler remained with its partners, a Chrysler spokeswoman said.

Chrysler pays foreign taxes for corporate subsidiaries, and for certain U.S. states that impose income taxes on noncorporate legal entities.

In its annual report, Chrysler said it paid about $200 million in taxes in 2011 — nearly all outside the U.S. — including $6 million to the U.S. and $5 million in state and local taxes.