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United States Senate

COMMITTEE ON FINANCE
WASHINGTON, DC 20510-6200

June 2, 2021

Richard A. Gonzalez
Chairman and Chief Executive Officer
AbbVie Inc.
1 North Waukegan Road
North Chicago, IL 60064

Dear Mr. Gonzalez:

I write seeking information related to AbbVie Inc.'s (AbbVie) international tax practices, including the methods employed by AbbVie to pay a stunningly low effective tax rate that has averaged 9.5 percent in the three years since the enactment of the 2017 Republican Tax Law.¹ Despite being a company headquartered in the United States that does the vast majority of its sales in the United States, AbbVie has consistently reported net losses in the U.S. and net income outside of the U.S.

As you are aware, in addition to being AbbVie's legal domicile and the primary location for AbbVie's research and development activities, the United States is also the company's single biggest sales market for prescription drugs and therapeutics. In 2020, AbbVie generated \$34.9 billion in net revenues here in the U.S., representing approximately 75 percent of its global sales.² As part of that revenue, AbbVie collected more than \$16 billion in U.S. sales of Humira, a treatment for rheumatoid arthritis and other inflammatory diseases that remains the best-selling

¹ 2018: AbbVie Inc., *AbbVie Reports Full-Year and Fourth-Quarter 2019 Financial Results*, Feb. 7, 2020, <https://news.AbbVie.com/news/press-releases/AbbVie-reports-full-year-and-fourth-quarter-2019-financial-results.htm>; 2019: AbbVie Inc., *AbbVie Reports Full-Year and Fourth-Quarter 2020 Financial Results*, Feb. 3 2021, <https://investors.AbbVie.com/static-files/28ec0c10-474f-4b35-9133-1518835fd31e>; 2020: AbbVie Inc., *AbbVie Reports Full-Year and Fourth-Quarter 2020 Financial Results*, Feb. 3 2021, <https://investors.AbbVie.com/static-files/28ec0c10-474f-4b35-9133-1518835fd31e>.

² AbbVie Inc., *AbbVie Reports Full-Year and Fourth-Quarter 2020 Financial Results* at 8, Feb. 3 2021, (showing U.S. versus international revenues, \$35 billion in U.S. compared to \$46 billion total), <https://investors.AbbVie.com/static-files/28ec0c10-474f-4b35-9133-1518835fd31e>.

drug in the world.³ AbbVie also collected more than \$4.3 billion in U.S. sales of cancer treatment Imbruvica.⁴

While these drugs were already generating enormous profits for AbbVie at lower price points, AbbVie still has continuously increased the price of these life-saving treatments. Since AbbVie began to sell Humira in 2003, the price of Humira has been raised 27 times. Humira is now priced at \$2,984 per syringe, or \$77,586 annually, a 470 percent increase from when the drug entered the market.⁵ AbbVie has also raised the price of Imbruvica nine times since it began selling the drug in 2013. For a patient taking three pills per day, the price of Imbruvica has increased from \$99,776 per year in 2013 to \$181,529 per year today.⁶ Furthermore, a recent analysis by the Government Accountability Office revealed that Americans pay more than twice as much for Imbruvica than consumers in Australia, Canada and France.⁷ These price increases have come at an enormous cost to the U.S. taxpayer. AbbVie has collected nearly \$10 billion in Humira net revenue from Medicare Part D between 2010 and 2018.⁸ AbbVie also collected \$4.7 billion in Imbruvica net revenue from Medicare part D between 2014 and 2018.⁹

Despite the United States market being the source of most of AbbVie's revenues and richest price premiums, it appears that the company has consistently reported net losses in the United States while reporting substantial foreign profits. In 2020, AbbVie reported a domestic pretax loss of \$4.5 billion while reporting foreign pretax profits of \$7.9 billion.¹⁰ Similarly, in 2019 AbbVie reported a domestic pretax loss of \$2.8 billion while reporting foreign pretax profits of \$11.2 billion. In 2018 AbbVie also reported a domestic loss with regard to pre-tax profits.¹¹

It appears that AbbVie shifts profits offshore while reporting a domestic loss in the United States to avoid paying U.S. corporate income taxes, and that the current U.S. international tax system seems to encourage that. According to public reports, in 2018 you told a group of investors that because of the changes to the international tax regime made by the 2017

³ *Id.*

⁴ *Id.*

⁵ IBM Micromedex Redbook, *Wholesale Acquisition Cost for Humira*, (the annual calculation is for a patient that injects every other week).

⁶ IBM Micromedex Redbook, *Wholesale Acquisition Cost for Imbruvica*.

⁷ United States Government Accountability Office, *Prescription Drugs: U.S. Prices for Selected Brand Drugs Were Higher on Average than Prices in Australia, Canada and France* (March 2021) (online at <https://www.gao.gov/assets/gao-21-282.pdf>)

⁸ Committee on Oversight and Reform, U.S. House of Representatives, *Drug Pricing Investigation: AbbVie—Humira and Imbruvica* (May 2021) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Committee%20on%20Oversight%20and%20Reform%20-%20AbbVie%20Staff%20Report.pdf>)

⁹ *Id.*

¹⁰ AbbVie Inc., *2020 form 10-K* at 103, <https://investors.AbbVie.com/static-files/47512e94-a9a4-4035-8dbc-6eb59116bb05>.

¹¹ *Id.*

Republican Tax Law, AbbVie expected its tax rate to be cut in half to 9 percent from an average of 22 percent in the years prior.¹²

It turns out that is exactly what happened, as AbbVie has been able to successfully exploit the incentives to offshore profit included in that law. According to company documents, AbbVie's effective tax rate fell to just 8.7 percent in 2018, the first year after the passage of the 2017 Republican tax law.¹³ AbbVie subsequently paid an effective tax rate of just 8.6 percent in 2019 and 11.2 percent in 2020, rates that are far lower than the statutory corporate income tax rate of 21 percent in the United States, and even far lower than what AbbVie paid just a few years before.¹⁴ Prior to the passage of the 2017 tax law, AbbVie paid effective tax rates of 20 percent in 2016 and 19 percent in 2017.¹⁵ While corporate tax returns are not publicly available information, company documents and public reports indicate that AbbVie accomplishes this by reporting income and registering patents in low-tax jurisdictions. An analysis by Reuters found that AbbVie registered the majority of its patents for best-selling drug Humira in Bermuda, a country that has a zero percent tax rate on corporate profits. Additionally, AbbVie, in its most recent annual report, stated that among other things, "[t]he effective income tax rates in 2020, 2019 and 2018 differed from the statutory rate principally due to the impact of foreign operations which reflects the impact of lower income tax rates in locations outside the United States [. . .]."¹⁶

Instead of using the massive tax cuts given to AbbVie by the 2017 tax law to reduce drug prices for American families, AbbVie has instead chosen to provide a \$10 billion windfall to its investors by substantially increasing the amount of money it spent buying back its own stock. In 2018 and 2019 AbbVie spent almost \$13 billion on stock buybacks, quadruple what it spent on stock buybacks in the two years prior to the enactment of the 2017 tax law.¹⁷ In 2016 and 2017, AbbVie spent \$3.1 billion on stock buybacks.¹⁸

¹² Reuters, *How U.S. tax reform rewards companies that shift profit to tax havens*, June 18, 2018, <https://www.reuters.com/article/us-usa-tax-AbbVie/how-u-s-tax-reform-rewards-companies-that-shift-profit-to-tax-havens-idUSKBN1JE12Q>.

¹³ 2018: AbbVie Inc., *AbbVie Reports Full-Year and Fourth-Quarter 2019 Financial Results*, Feb. 7, 2020, <https://news.AbbVie.com/news/press-releases/AbbVie-reports-full-year-and-fourth-quarter-2019-financial-results.htm>.

¹⁴ 2019: AbbVie Inc., *AbbVie Reports Full-Year and Fourth-Quarter 2020 Financial Results*, Feb. 3 2021, <https://investors.AbbVie.com/static-files/28ec0c10-474f-4b35-9133-1518835fd31e>; 2020: AbbVie Inc., *AbbVie Reports Full-Year and Fourth-Quarter 2020 Financial Results*, Feb. 3 2021, <https://investors.AbbVie.com/static-files/28ec0c10-474f-4b35-9133-1518835fd31e>.

¹⁵ 2016: AbbVie Inc., *AbbVie Reports Full-Year and Fourth-Quarter 2017 Financial Results*, Jan. 26, 2018, <https://news.AbbVie.com/news/AbbVie-reports-full-year-and-fourth-quarter-2017-financial-results.htm>; 2017: AbbVie Inc., *AbbVie Reports Full-Year and Fourth-Quarter 2018 Financial Results*, Jan. 25, 2019, <https://www.prnewswire.com/news-releases/AbbVie-reports-full-year-and-fourth-quarter-2018-financial-results-300784247.html>.

¹⁶ AbbVie Inc., *2020 form 10-K* at 104, <https://investors.AbbVie.com/static-files/47512e94-a9a4-4035-8dbc-6eb59116bb05>.

¹⁷ AbbVie Inc., *2019 form 10-K* at 43, <https://investors.abbvie.com/static-files/71f9318f-9a32-42ee-92ee-a34975edcd19>

¹⁸ AbbVie Inc., *2018 form 10-K* at 41, <https://investors.abbvie.com/static-files/47b78f29-de86-46fd-ae82-83878c1a72f1>

As Chairman of the Senate Finance Committee, I am conducting an investigation into how the 2017 tax law's international provisions created incentives for large multinational corporations to shift profits overseas as a way to avoid taxes. The law's flawed design enables large multinational corporations that primarily operate in the United States to structure their operations in a way that allows them to pay a tax rate that is a fraction of that paid by the average hard working American family. Accordingly, please provide answers to the following questions no later than June 16, 2021:

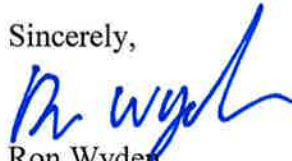
1. For tax years 2018, 2019 and 2020, please provide a detailed country-by-country breakdown of AbbVie's pre-tax earnings, profit margins, employee headcount, and tax paid.
2. In 2020, AbbVie reported domestic revenues of \$34.8 billion and a domestic pre-tax loss of \$4.5 billion. How did AbbVie generate 75 percent of its net revenues in the U.S. yet report negative profit margins domestically?
3. Please explain in detail how the provisions of the 2017 Republican tax law allowed AbbVie to reduce its effective tax rate from approximately 20 percent prior to the 2017 tax law, to an average of just 9.5 percent for tax years 2018 – 2020.
4. In 2020, AbbVie reported \$16 billion in net U.S. sales of Humira. Is the pre-tax income attributed to these sales reported by AbbVie entities in the U.S. or by AbbVie subsidiaries in foreign jurisdictions? Is Humira sold in the U.S. purchased from any AbbVie subsidiaries in foreign jurisdictions, or are any royalties or similar payments paid from the U.S. to AbbVie subsidiaries in foreign jurisdictions on such sales?
 - a. For tax year 2020, please provide a detailed list of foreign entities reporting pre-tax earnings for sales of Humira in the U.S., the legal domicile of these entities and the amount of earnings attributable to each entity. In addition, please provide a detailed list of foreign entities reporting the receipt of any royalties or similar payments in regard to sales of Humira, the legal domicile of these entities and the amount of earnings attributable to each entity.
5. In 2020, AbbVie reported \$4.3 billion in net U.S. sales of Imbruvica. Are the pre-tax earnings attributed to these sales reported by AbbVie entities in the U.S. or by AbbVie subsidiaries in foreign jurisdictions? Is Imbruvica sold in the U.S. purchased from any AbbVie subsidiaries in foreign jurisdictions, or are any royalties or similar payments paid from the U.S. to AbbVie subsidiaries in foreign jurisdictions on such sales?
 - a. For tax year 2020, please provide a detailed list of foreign entities reporting pre-tax earnings for sales of Imbruvica in the U.S., the legal domicile of these entities and the amount of earnings attributable to each entity. In addition, please provide

a detailed list of foreign entities reporting the receipt of any royalties or similar payments in regard to sales of Imbruvica, the legal domicile of these entities and the amount of earnings attributable to each entity.

6. Please provide a detailed list of the entities that own patents for the trademarks, or any other intellectual property right, to sell Humira, Imbruvica, Skyrizi, Rinvoq, Venclexta, Creon and Mavyret in the United States. Please also include the country of legal domicile for each entity.

Thank you for your attention to this important matter.

Sincerely,



Ron Wyden
Chairman
Committee on Finance