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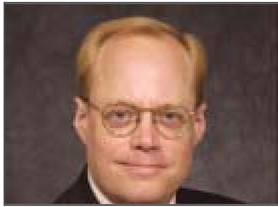

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THE TAX LAWYER

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Bringing Overseas Money To The U.S.

Recently, I wrote about several sophisticated tax strategies employed by Google and other companies to shift income outside the U.S. to avoid U.S. tax rates. Those are clever strategies for building up a tax-free foreign war chest. But can the money be sent back to the U.S.?

It turns out there's a U.S. tax if the parent repatriates the money for use here. But there may be strategies for that part too. That's where several other transactions may be used to–forgive the expression–wash the money so it can be used by the company in the U.S.

The Killer B. The IRS blacklisted this one in 2006 so don't try it today. The Killer B involved the parent trading cash accumulated overseas for stock in its own foreign subsidiary. The parent got the money and the subsidiary could use the stock to make further acquisitions. No tax.

The Deadly D. The goal is the same as the Killer B, but here the parent buys stock in an unrelated company. Then it transfers ownership of that company to a pre-existing foreign subsidiary. The subsidiary then pays the parent cash equal to the purchase price of the unrelated company, freeing up money it already had, and making a tax-free purchase.

The Outbound F. The Outbound F requires the parent company to purchase another U.S. company. The buyer requires the target company to promise a large cash payment in the future. Then the acquired company forms a subsidiary in another country. It borrows cash from a

previously existing subsidiary, and then transfers it to the parent.

Because the subsidiary had promised the cash payment when it was still an American company there is no tax. This is so even though the company was foreign when it paid it and the payment back to the U.S. parent is essentially a repatriation of money that escaped U.S. tax via a Dutch Sandwich or other strategy.

There's been much hoopla lately about U.S. companies complaining about high U.S. corporate tax rates (35%) but actually ***paying*** low rates. How is this possible? Big companies can hire fancy tax lawyers to come up with ways for the company to reduce its effective tax rate from 35%–the normal U.S. marginal corporate tax rate–down to a paltry 10 or 15%.

For more, see:

The Double Irish and the Dutch Sandwich

Dodging Repatriation Tax Lets U.S. Companies Bring Home Cash

Abusive Offshore Tax Avoidance Schemes – Talking Points

15 Top Corporate Tax Dodgers

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