

Earnings Stripping Could Be Next

By Robert W. Wood • Wood LLP • San Francisco

With inversions getting all the press, there was a quiet reaction when earnings stripping was not expressly addressed by Notice 2014-52. Sens. Chuck Schumer and Dick Durbin, both Democrats, have proposed cracking down on earnings stripping.

After an inversion, it is fairly common for a foreign parent to lend money to a U.S. unit. The idea is for the U.S. borrower to send U.S. profits abroad, while getting a U.S. tax deduction for the interest. If inversions are all about having

non-U.S. profits not taxed to the United States, after all, this can seem like a true double dip.

As a result, Sens. Schumer and Durbin have proposed cutting the deductions a company can claim to only 25 percent of income, even for companies that inverted in the past. They would also do away with the more liberal rule for less-leveraged companies. Of course, there is legislative action on the horizon, and that means earnings stripping is still OK.

For now.