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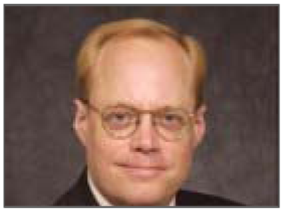

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THE TAX LAWYER

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IRS Wins Tax Shelter Trifecta

Image via hendrick.com

The Justice Department announced victories in three tax shelter cases at once: *Southgate Master Fund LLC v. United States*, *Pritired 1 LLC v. United States*, and *WFC Holdings Corporation v. United States*. One involved DAD (see Appeals Court Nixes Billionaire Beal's $1.1 Billion Tax Shelter), one PC Swaps, and the third LRT. Shelter promoters do love their acronyms! See Beware Patented Tax Strategies.

The IRS may see this as the trifecta, or to mix sports metaphors, as a kind of three strikes and you're out. But this is only one little group of tax shelters, and there are certainly more on deck. Welcome to the world of ***attempted*** tax shelters.

How could an investment of $19 million turn into $1.1 billion of losses (for tax purposes)? Answer: the deadbeat DAD (Distressed Asset Debt) shelter or its cousin the DAT (Distressed Asset Trust). But as it turned out, it didn't work.

This time the elite taxpayer was Andrew Beal, number 39 on Forbes 400 Richest Americans. Even billionaire bankers need tax benefits, it seems. The lower court ruled Beal's who's-your-DAD shelter stunk and the Fifth Circuit affirmed. Beal's wasn't a mass-market deal but might as well have been.

Southgate Master Fund LLC, was formed to buy Chinese nonperforming loans. When Southgate dumped them, smoke and mirrors partnership tax accounting (remember Enron?) generated more than $1 billion in paper losses. The IRS called it a sham and added penalties. The district court and Fifth Circuit agreed.

The geography was different in another DAD slap-down, *Superior Trading LLC v. Commissioner*. There, U.S. taxpayers made artificial investments in Brazilian consumer debt. A Brazilian retailer sold distressed debt—like bad checks—to a U.S. entity for 1 to 2% of face value. The U.S. entity contributed the debt to trusts, which taxpayers snapped up for a price pegged to tax losses said to be generated by the deal.

The Justice Department cried foul and even sued to stop Chicago tax lawyer John E. Rogers promoting them. His deals are ***artificial,*** generating over $370 million in improper tax deductions for over 100 clients, claims this statement. As my Forbes colleague Janet Novack notes here, Rogers consented to a permanent injunction, even requiring him to turn over the names of ***everyone*** who bought one of his DAD shelters ***since 2003***. Someone's telephone might ring...

For more see:

U.S. Wins Three Tax Cases Involving Big Banks, KPMG

Appeals Court Nixes Billionaire Beal's $1.1 Billion Tax Shelter

How Bad Is Your Tax Shelter?

Dear DAD: Southgate and the American Jobs Creation Act

How Can Companies Skirt U.S. Tax?

When Too Good Tax Deals Become Fraud

Seeking Shelter In Tax Shelters?

Taxes As Seen On TV?

Economic Substance Doctrine and Tax-Motivated Investments

‘Tis The Season For *Tax Shelters*, Fa La La La La And Grab Your Wallet

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