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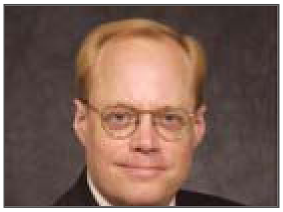

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Bend It Like Buffett

Warren Buffett is saving taxes again, this time via Berkshire Hathaway's $4.7 billion purchase of Duracell from Procter & Gamble. Shrewd business deals that also deftly avoid taxes are becoming a kind of trademark for the billionaire chairman of Berkshire Hathaway. In this case, the deal involves Berkshire turning over $4.7 billion worth of Procter & Gamble Co. stock in exchange for its Duracell battery business. The latter gets a $1.7 billion cash infusion.

Normally, selling stock is taxed, and this deal sells without selling. It is said that the cost basis of the shares is $336 million. That means the tax savings here are over $1 billion. The deal is reminiscent of the early 2014 deal in which Berkshire swapped shares in Phillips 66 in exchange for its pipeline-flow-improver business.

These are exchanges of shares structured as a tax-free reorganizations. Of course, anytime that Mr. Buffett deftly sidesteps taxes, someone is likely to remind him that he has publicly supported a higher tax rate on wealthy individuals. He should pay more, he has noted, and a higher tax rate than his secretary.

President Barack Obama and Warren Buffett in the Oval Office, July 14, 2010. (Photo credit: Wikipedia)

You have to hand it to the 84-year old billionaire. He has largely managed to avoid flack for doing deals that seem to contradict his “raise my taxes” mantra. For example, Burger King is going Canadian, an ideal way for a company to reduce U.S. taxes on foreign income. The burger company’s takeover of Canadian Tim Hortons Inc. was sweetened by Mr. Buffett, who agreed to help finance it. A lower corporate tax rate in Canada was clearly attractive.

Even so, Mr. Buffett has suggested that the Burger King deal is different from transactions in which companies shift valuable intellectual property to other nations. And his defenders are correct when they suggest that he has a fiduciary duty to his company and its shareholders to be tax-efficient. Yet he does it personally too, including his charitable donations. After all, he usually makes donations with appreciated stock.

In fact, he gave $2.6 billion to charity in 2013. In 2014, he upped his giving to $2.8 billion. Big gifts went to the Bill and Melinda Gates Foundation and other charities. Was it cash? Of course not! The famously savvy CEO did it in stock, giving 21.7 million shares of his company’s class B stock. Valued at $128.98 per share, it reduced his holdings to $63.1 billion. $2.1 billion worth of shares (16.59 million of them) went to Bill Gates’ charity, the Gates Foundation.

Other donees of Mr. Buffett’s Berkshire stock included the Susan Thompson Buffett Foundation ($215 million of stock), the Howard G. Buffett Foundation, the Sherwood Foundation and the NoVo Foundation. The latter three charities got $150 million each via stock in Berkshire Hathaway.

In all, Mr. Buffett has proven to be careful to plan transactions efficiently so he pays less. Like a long term investment that pays off, perhaps there’s something satisfying in arranging a deal that is tax-efficient.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.