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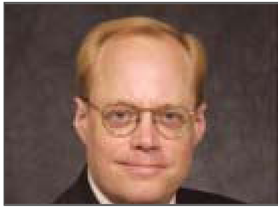

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# Don't Look For (Tax) Shelter Under Wells Fargo Wagon

If you like reading about tax shelters, you may remember that Wells Fargo was one of the big banks hit with major losses over SILOs and LILOS. I know, even those names sound nefarious. They are basically sale-leaseback deals.

Image via sfappeal.com

SILO "Sale-In/Lease-Out" and LILO "Lease-In/Lease-Out" deals are tax shelters usually involving foreign government infrastructure—think the Berlin subway or Rio streetcars. See SILOs and LILOs Demystified. Put simply, a promoter gets Berlin politicians to sell off their subway system to U.S. banks. Don't worry, the promoter assures, Berlin will get to keep its subway because the U.S. banks will simultaneously lease it back where it is needed (um, that would be Berlin).

The smoke and mirror deals are supposed to yield whopping tax benefits to the banks. Well Fargo sure thought so. As it turned out, the IRS and the courts said Nein to these deals. See *Wells Fargo v. U.S.* and *What Wells Fargo Brings to the SILO/LILO Debate*.

The latest tax tale of woe to mess up the bank with the stagecoach tradition arguably involved an even sleazier play. Here's how it worked or at least was supposed to. This Wells Fargo tax shelter adventure grew out of the bank's 1996 acquisition of First Interstate Bancorp, another financial services company.

After closing, Wells Fargo realized it had seriously underestimated the costs of combining the two companies' real estate portfolios. Saddled with an enormous supply of excess real estate it didn't need but was obligated to continue renting, Wells was in a quandary. Many properties were underwater and Wells thought the losses might hit $1 billion—far in excess of what it anticipated.

Enter accounting firm (and then tax shelter peddler) KPMG, which approached Wells with a special deal, limited time only: for a mere $3 million, KPMG's Total Tax Minimization Group (not a made up name) would design and implement a slick deal to push off the underwater leases to a subsidiary, creating—if only on paper—a capital loss of $423 million.

That loss would (it was claimed) offset capital gains, thus saving Wells a cool $80 million in taxes. Wells agreed to the deal in August 1998. One of the key issues was whether there was a "business reason" for any of this or if it was just about taxes. Examining some ginned-up business goals, the court didn't buy it.

The federal government accused Wells of engaging in a 10-year "charade" to "hoodwink" regulators and avoid paying $80 million in taxes. See Principal, Wells Fargo Lose High-Stakes Court Battles.

For more, see:

*Wells Fargo v. United States*

Wells Fargo Loses $80 Million Case

LILOs, SILOs and Business Purpose, Part I

LILOs, SILOs and Business Purpose, Part II

IRS Wins Tax Shelter Trifecta

Trafficking In Tax Shelters Can Mean Jail

“DAD” Tax Shelter Is A Deadbeat

Know Tax Shelters When You See Them?

Tax Shelters Not Über Alles

Seeking Shelter In Tax Shelters?

How Bad Is Your Tax Shelter?

Taxes As Seen On TV?

When Too Good Tax Deals Become Fraud

Beware Patented Tax Strategies

IRS – Abusive Tax Shelters And Transactions

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