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I.R.S. May Tighten Rules That Send Profits Abroad

By LYNNLEY BROWNING

The Internal Revenue Service is considering a plan to curb a tactic commonly used by multinational corporations with American operations to lower their tax bills, a move that would help bring back some of the billions of dollars in taxable profits held overseas.

The plan was described on Wednesday by two government officials briefed on the matter, who spoke on the condition of anonymity because they said the plan was still in its early stages.

A spokesman for the I.R.S. declined to comment Wednesday on a report in a prominent industry publication, Tax Analysts, that quoted a senior I.R.S. official as telling a tax conference on Tuesday that current regulations could be tightened as early as next month.

The plan, as broadly described by the two officials, would be the latest step by the Treasury Department, which oversees the I.R.S., to find ways to ease the credit crisis that is agitating financial institutions.

In recent years, the I.R.S. has increased its scrutiny of corporations using the tactic, known as transfer pricing. Multinational corporations, whether based in the United States or overseas, are legally able to cut their United States taxes and keep profits offshore in low-tax jurisdictions through their calculations of the prices associated with transferring goods and services between their divisions.

The corporations are supposed to calculate those prices as if they were between independent entities and pay taxes, typically 35 percent, on profits brought back to the United States. But some companies abuse the tactic in improperly seeking to minimize their taxable profits in the United States and shift profits overseas by undercharging or overpaying foreign subsidiaries for goods and services.

By many accounts, abuse of the tactic deprives federal coffers of billions of dollars in tax revenue each year. Curtailing it could force scores of big corporations that are now in disputes with the I.R.S. over their transfer-pricing arrangements to pay large amounts in back taxes and penalties.

Among other things, the proposal includes the creation of a council within the I.R.S. that would be devoted to scrutinizing the loophole, the hiring of agents and tax specialists devoted to financial products and the promulgation of specific price structures.

"The government's concern is that there is a significant amount of revenue being lost through what they would characterize as abusive transfer-pricing agreements," said David B. Blair, a tax lawyer at Miller & Chevalier in Washington.

He said that the government was particularly concerned about the improper use of cost-sharing arrangements, in which related companies jointly develop intangible assets, like intellectual property and licensing agreements, and try to share the cost.

In one big case, GlaxoSmithKline agreed in 2006 to pay the I.R.S. $3.4 billion and abandon its claim for a tax refund of $1.8 billion to resolve a dispute over whether the company's American subsidiary had overpaid its British parent company to reduce its profits, and thus its tax bill, in the United States.

Congressional scrutiny of the tactic has ramped up in recent years. The Senate Finance Committee is examining whether corporations are abusing an I.R.S. program that allows them to win advance approval of their pricing calculations. Douglas H. Shulman, the I.R.S. commissioner, is making international tax issues, of which transfer pricing is a crucial area, a chief focus of his administration.

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