

## U.S. capital gains taxes exempted by law

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The 100 year old investment-banking firm of Warburg, Dillon Read (on Park Ave. N.Y.) (now UBS Warburg) has offices in 39 foreign countries - including the Bahamas, the tiny Cayman Islands, Hong Kong and the Channel Islands. Makes you wonder why, doesn't it?

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Non-resident foreign companies, trusts, banks and individuals can trade stocks, bonds, commodity contracts and options 100% free from U.S. capital gains taxes.

{bot\_wrgoogle}Under the U.S. Tax Code, only when a foreign company, foreign trust or nonresident alien individual takes up permanent residence within the United States will he be subject to U.S. capital gains taxes in the same way as domestic taxpayers. For a corporation permanent residence would be a U.S. office or warehouse. Capital gains realized by foreign corporations and other nonresidents "not engaged in a trade or business within the United States" are exempted from tax under IRC Section 871 and IRC Section 881 & IRC Section 897(c)(3). Moreover, U.S. Treasury Regulations Section 864-2(C)(1) & (2) provides an exception for what embodies being "engaged in a trade or business within the United States". Under U.S. regulations, a nonresident's Stock Market transactions carried-out through a U.S. stock broker, independent agent, or an employee are not considered to cause the nonresident to be "engaging in a trade or business within the United States".

Publicly traded stock market gains (from NYSE, NASDAQ or AMEX listed stocks and bonds) accruing to an offshore company are free of US capital gains taxes by the Internal Revenue Tax Code's statutes, but "US Shareholders" can have a tax liability (indirectly) if the offshore company is a "Controlled Foreign Corporation (CFC) (i.e., "more than 50% of voting and non-voting stock is owned by US SHAREHOLDERS). See sections 951 thru 958 of the IRC. See especially Code-Section 951(b) for the definition of US SHAREHOLDERS.

American taxpayers that use tax havens are taking more risks (generally) than a foreign non-resident alien (not a US citizen). Whether an American citizen taxpayer will have a tax liability on the offshore company profits depends on a lot of things - including what kind of income is produced by the company (i.e., Subpart F or non-Subpart F) and how many shares in the company you own, and whether the offshore company is a CFC - as defined in the Internal Revenue Code in Sections 957 and section 958.

Disclaimer: Pursuant to Internal Revenue Service guidance, be advised that any federal tax advice in this communication, including any attachments or enclosures, was not intended or written to be used, and it cannot be used, by any person or entity for the purpose of avoiding penalties imposed under the Internal Revenue Code.

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- \$1.2 trillion dollars on deposit in Cayman Banks - up 10% in 2005 says Cayman Government?

- Sixty percent of these monies comes from US investors says Manhattan District Attorney Robert Morgenthau.

- Did you know there are two online stock broker firms located in a no tax haven (offshore) - and both are 100% owned by the Bank of New York?

- Did you know that non-resident aliens (including foreign companies) can trade "publicly traded stocks" (i.e., NYSE, NASDAQ, AMEX) under the tax code and not owe capital gains tax?

- "One of the most effective applications of offshore trusts is in an ownership combination with a limited company." - Richard Graham-Taylor, partner Ernst & Young, Grand Cayman (January 1990).

- 2005 revenues for Ernst & Young worldwide were \$19 billion.