

# IRS Setbacks in Court Rekindle Debate About Need for Tax-Shelter Legislation

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Several courtroom defeats suffered by the Internal Revenue Service in recent months are rekindling debate about the need for new legislation to control corporate tax shelters.

At stake are billions of dollars. Advocates of new legislation say the IRS's recent losses will embolden corporate execu-

Winn-Dixie Stores Inc. and AlliedSignal, which combined with Honeywell International Inc. in 1999.

The Bush administration isn't expected to propose any new antishelter legislation in the president's budget to be released early February. Mark Weinberger, assistant Treasury secretary for tax policy, emphasized vigorous IRS enforcement on a case-by-case basis and new govern-

new legislation advocates say Congress needs to draw tighter lines between legiti-

says. "You can't legislate away every-

ate tax-fault to a definition at Courts and is computer deposit on 5  
ers will no real business purpose other than to dodge taxes. But drawing those lines has proved enormously difficult in the past and business groups fear any new congressional attempts might overreach, torpedoing legitimate transactions. What's more, critics of new legislation note that the government also has won several major corporate tax-shelter battles, including cases involving Colgate-Palmolive Co.,

another judge's idea of a legitimate saving technique. "It's very difficult to draw the line with an objective don," says David Harton, a tax partner at Sullivan & Cromwell in New York. "The courts will always have to decide what is not a tax shelter."

In the case of Compaq, the maker bought and sold American

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## Courts Fuel Tax-Shelter Debate

and within the law and prevail in the courts." Litigation was a hallmark of the Clinton administration that officials said made it tougher for many companies with no real business purpose. That legislation to encourage greater disclosure by com-

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tory receipts, or ADRs, of Royal Dutch Petroleum Co., generating foreign tax credits for Compaq. (ADRs trade in U.S. markets but represent shares of foreign companies.) The Tax Court, based in Washington, said the maneuver lacked "economic substance." The U.S. appeals court for the Fifth Circuit disagreed.

Congress later passed legislation curtailing the type of tactic used by Compaq and others. Still, Timothy J. McCormally, executive director of Tax Executives Institute, a Washington-based corporate tax

position was sound-

would ultimately p-

Fighting tax shelter the Treasury Department administration proposed legislation would have made types of transaction purpose to pass in also was designed disclosure by com-