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POINT OF VIEW BY BRIAN FUXA

Duluth understands leaseback scheme

There is a resolution before the Duluth City Council stating that "the proper city officials are authorized to execute and implement a contract... with Allco Finance Corporation." This contract would result in the leasing of Duluth's water and sewer utilities to reduce tax bills of for-profit companies.

A similar resolution came before the Rapid City, S.D., council. When Rapid City sent Allco packing, Jim Wavle of Allco said, "Rapid City leaders rejected the deal without fully understanding it."

I see. In a Jan. 14 News Tribune Point of View column, Allco pitchmen Scott Scofield and Wavle state that they also consider Duluthians "badly misinformed."

Well here's the setup: Allco acts as a "facilitator," coming to a city to appraise its infrastructure in order to determine its value. They then solicit bids for what is called a "long-term lease-leaseback transaction," with the city, then lease that infrastructure to the highest bidder (Ameritech, Metlife, Wells Fargo and KBC -- a Belgium-based bank -- are among the corporations that have been involved in these transactions).

However, the corporation that wins the bid doesn't actually want to own or operate the infrastructure -- so it then turns around and leases the city's infrastructure back to the city. What changes hands is the tax title.

So what is in this for the winning bidder? Because cities do not file federal tax returns, cities cannot benefit from the tax write-off of the depreciation of their infrastructures. However, these corporations can depreciate the infrastructures, and they use these transactions as part of their tax strategy to reduce taxes owed, shifting the burden to the average taxpayer.

So what is in this for the cities? Well, they say, because we're making money on this, we don't need to get from the city 100 percent of the fair market value of your infrastructures. Let's just say that on your lease from us of that which we just leased from you, you pay us on 97 percent of that value. That 97 percent of the infrastructures' value we will put into a "guaranteed" investment account so that, from that account, you can make the payments to us on your lease from us of the thing we just leased from you.

The reason you should go along with this is that we then *give you*, for something you can't use anyway (those tax write-offs), that 3 percent of the value, up front, in cash! And yet Scofield and Wavle claim our questions of the ethics of this are caused by our "ignorance," that some "hype got spun," about this "evil 'tax shelter,' " and we all just "ate it up like cotton candy" without "look(ing) into the reality of the situation." They say "leasing is a benefit to municipalities that the law allows now."

Perhaps they meant to say "for now." Last October, the U.S. Senate Finance Committee held hearings about these kinds of abusive tax shelters, member Sen. Max Baucus calling

them "transactions without economic substance." The Tax Shelter Transparency and Enforcement Act, which would end these tax shelters, has been introduced in both houses of Congress (in Allco's proposal to Rapid City, the city would have been liable if the tax code should change).

Finance Committee Chairman Chuck Grassley says, "I say to the hucksters, it's time to find an honest living." Scofield and Wavle say, this "big show on tax shelters" is but "political cover for (even more) massive (Bush) administration giveaways" designed to divert our attention from the even more criminal "tax breaks that Congress doles out... all the time." So they, with faint praise, damn themselves.

It is true that Duluth faces financial shortages, and a cash infusion is tempting -- but these shortages are due in no small part to the schemes of these nationless, rogue investment corporations, schemes designed so that these corporations avoid paying their fair share of taxes. Scofield and Wavle admit that there is a "loss to the government," but that this loss is "only the time value of the money." Our federal, state and local governments need these outfits' tax money now -- not 30 or 99 years from now.

We commoners may not fully understand all the intricacies of the tax code, at least not as well as the high-paid lawyers and consultants hired to exploit it. But despite the attempt by Scofield and Wavle to paint anyone who questions their scheme as ignorant and uneducated, we do understand their shell game. WLSSD banished Allco by a 9-0 vote. Our City Council should send these carpetbaggers packing with the same unanimity.

BRIAN FUXA is a Duluthian concerned about corporate tax dodging and usurpations and giveaways of public treasures.