Indicators concerning the outcomes of the taxpayer's transactions

Introduction

As discussed in previous chapters, tax examiners and auditors should be aware of anything in a taxpayer's risk environment, their transactions and their payments and money flows that indicate an increased risk of bribery or corruption. Tax examiners and auditors should also be aware of any indicators that bribery or corruption may have already taken place.

When considering possible indicators, tax examiners and auditors must think very broadly. Almost any significant feature of the taxpayer's business, financial records or personal finances (or those of close relatives) that appears unusual or unexpected and cannot be fully explained may be an indicator of possible bribery or corruption, and could be reason for the tax examiner or auditor to pay extra attention to other possible indicators that may be present, or even to refer their suspicions to the appropriate law enforcement authority, the public prosecutor or the FIU.

Indicators

Indicators concerning outcomes that impact the taxpayer's business

- Benefits from favourable treatment by government agencies, suppliers or customers.
- Unusually successful at obtaining and retaining contracts.
- Contracts or licences are granted by PEPs or their relatives.
- Contracts are granted without the need for public tender, negotiations, or documents which would normally be expected.
- Goods or services acquired under contracts were never in fact received.
- Company has recently fired senior staff members with no clear justification.
- Records include incriminating correspondence that suggests possible bribery or other corruption.

Indicators concerning outcomes that impact the taxpayer's financial records

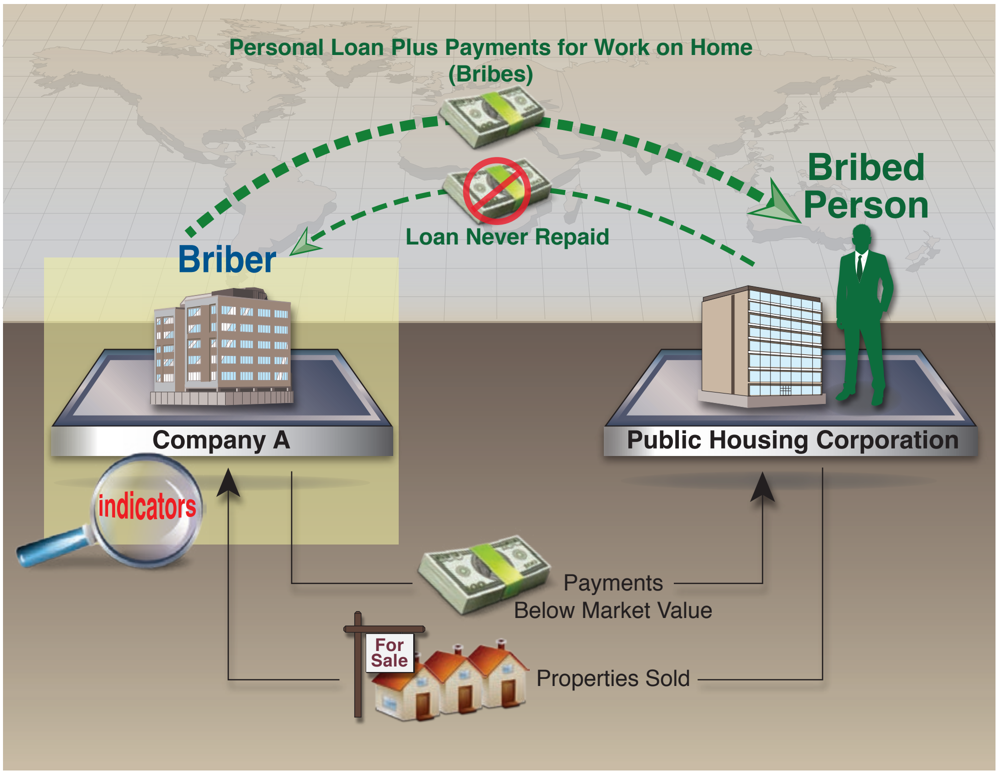
- Key financial ratios are out of line with similar businesses.
- Unusual or unexplained losses or profits on contracts.
- Records show no taxable gain when one would be expected.
- Records include expenses which are not linked to sales or profits.
- Balance sheet contains assets or rights acquired at higher or lower than market value, which have no real value, or may not even exist.
- Balance sheet assets or rights disposed of at a price higher or lower than their market value.
- Balance sheet contains an unexplained loan with an unrelated entity.
- Unexplained waiver of a loan with an unrelated entity.
- Balance sheet contains liabilities associated with assets which are unidentified, or where the value of the liability appears excessive.
- Business has seen a substantial and unexplained increase in capital.

Indicators concerning outcomes that impact the taxpayer's personal assets (or those of senior management)

- Company owns luxury assets unrelated to its business (private aircraft, yachts, expensive residential property etc.).
- The taxpayer, an employee or family member has a lifestyle or pattern of spending unsupported by their income.

Examples

Favourable treatment from supplier

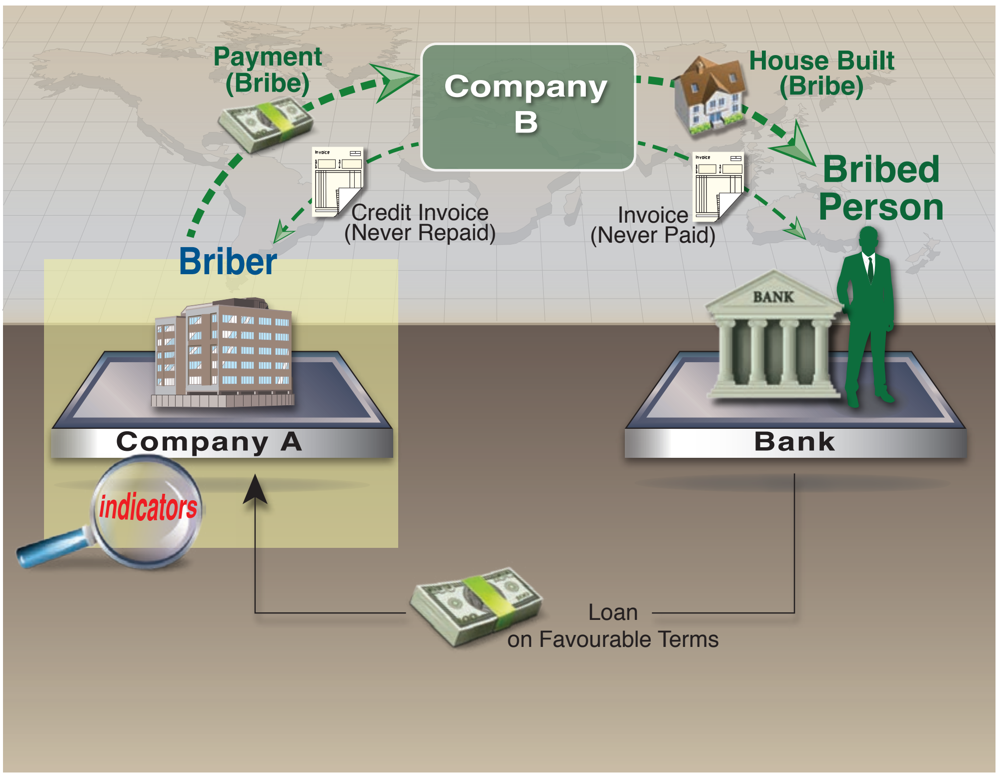


Company A (Briber) is a real estate company. During a tax audit, the tax auditor noted that Company A had a number of dealings with the same Public Housing Corporation, and decided to look more closely into this relationship. The audit uncovered that Company A had acquired a number of properties from the Public Housing Corporation at prices that appeared to be below the fair market value and on terms that were favourable to Company A. Company A did not appear to compensate the Public Housing Corporation for this. However, the tax auditor did discover that Company A had incurred significant costs on the renovation and re-decoration of a property that it did not own.

Further enquiries revealed that the property which had been renovated and re-decorated was owned by Mrs K (Bribed Person), the Chairman of the Public Housing Corporation. The tax auditor discovered that Company A had also made a "personal loan" to Mrs K that was not documented and that she was never required to repay. In total, Mrs K received benefits in excess of USD 750 000 which she did not declare to the Public Housing Corporation and did not include in her tax return. On the basis of this, the tax auditor suspected that Mrs K was in fact receiving bribes from Company A and referred these suspicions to the appropriate law enforcement authority, which commenced an investigation.

In this case, the key indicator that caused the tax auditor to suspect possible corruption was that Company A had entered into a number of contracts with the same Public Housing Corporation that seemed to be on favourable terms. Other indicators included the fact that Company A had incurred unexplained expenses on a property it did not own and had made an undocumented loan to Mrs K which she was not required to repay.

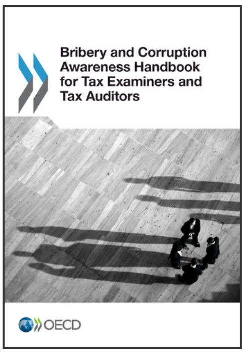
Unexplained expenses



Company A (Briber) was a project management company. During a tax audit, the tax auditor discovered that Company A was sent an invoice by Company B, a construction company, for building work on Company A's offices that had never taken place. Company A paid the invoice in full. Subsequently, Company B issued a credit invoice to Company A, but there was no evidence that Company A was ever actually repaid the price of the construction. At around the same time, Company A obtained a large loan from a local bank on what appeared to be favourable terms.

The tax auditor decided to conduct third party checks and discovered that Company B had in fact built a house for Mr L (Bribed Person), a senior staff member at a local bank. Company B had issued an invoice to Mr L with respect to the construction work, which was for the same amount as the invoice paid by Company A. The invoice issued to Mr L was never paid. In effect, Company A had paid Company B to build Mr L's house. The credit invoice issued to Company A and the invoice issued to Mr L appeared to have been generated to ensure Company B's books were in order, and were never intended to be honoured. The tax auditor therefore suspected that Company A had paid for the construction of Mr L's house as a bribe, in return for him exercising his authority at the bank and granting a loan to Company A on favourable terms. The tax auditor referred these suspicions to the appropriate law enforcement authority, which commenced an investigation.

In this case, the key indicator that caused the tax auditor to suspect possible corruption was that Company A had incurred unexplained expenses for work that had not taken place. Other indicators included the fact that Company A had received a credit invoice but no payment, and was not actively chasing payment; and Company A had around the same time received a large loan on favourable terms.



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