# DOUBLE IRISH SANDWICH

GOOGLE FEASTS; EUROPEAN GOVERNMENTS SUFFER HEARTBURN

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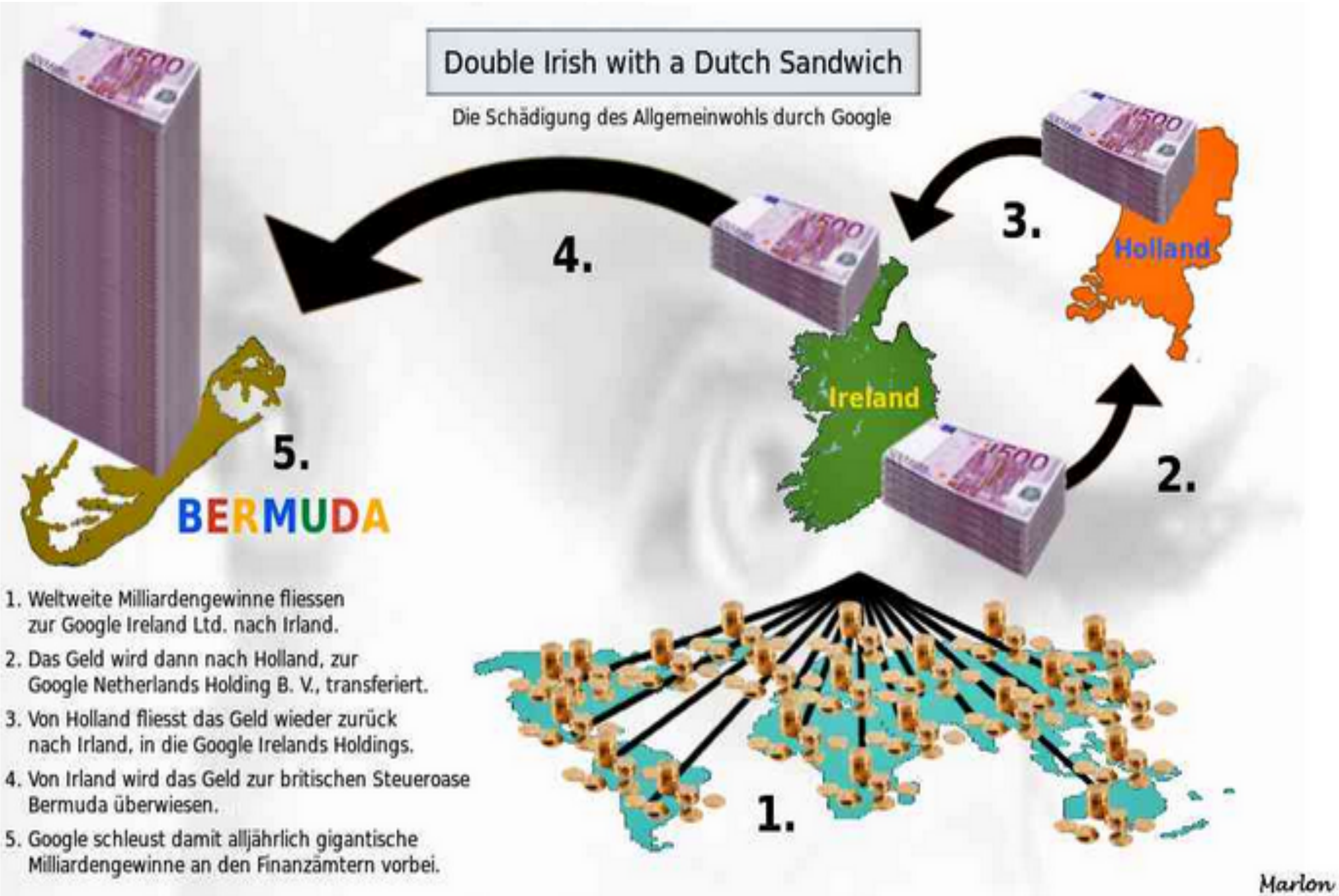
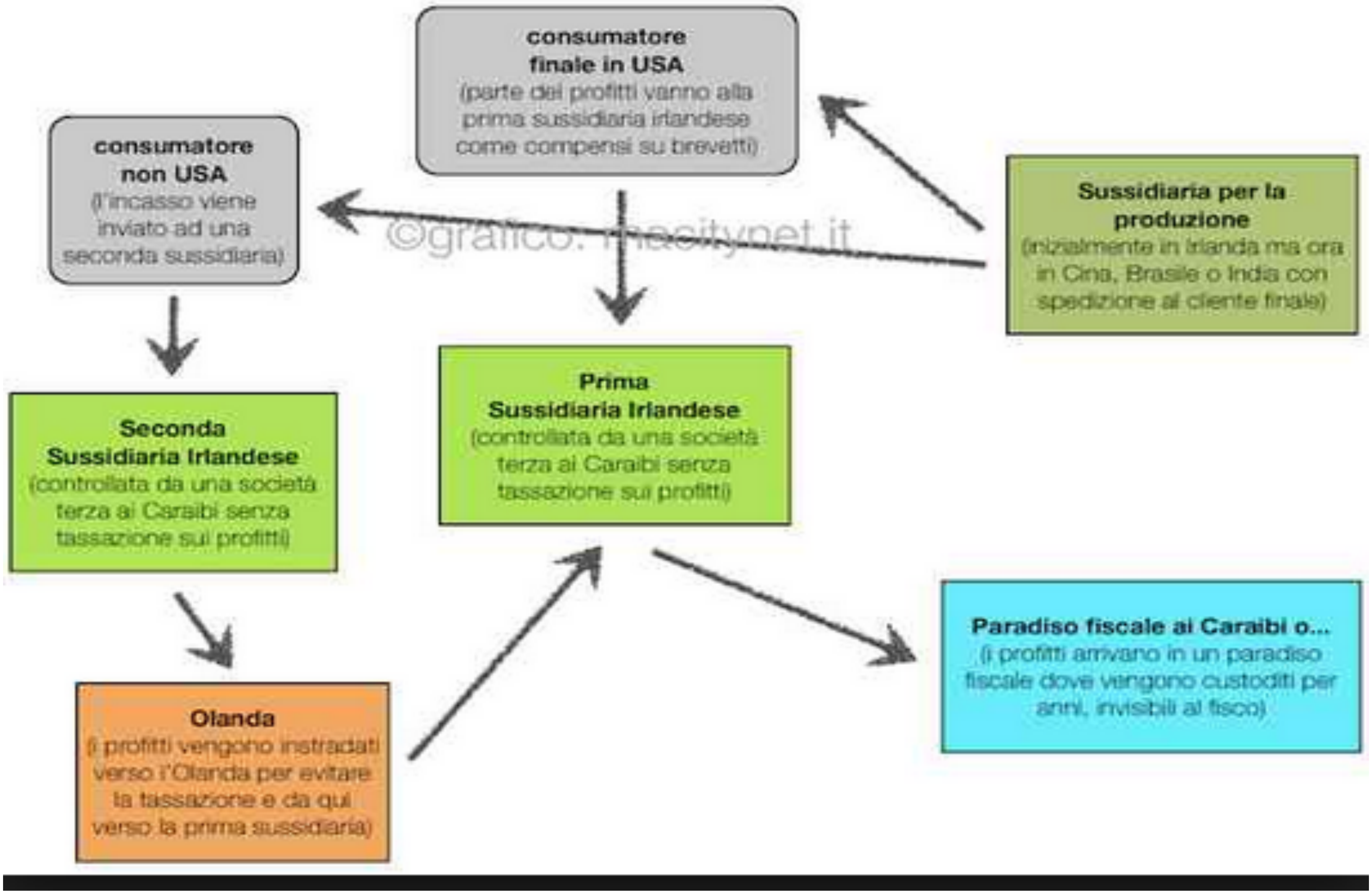
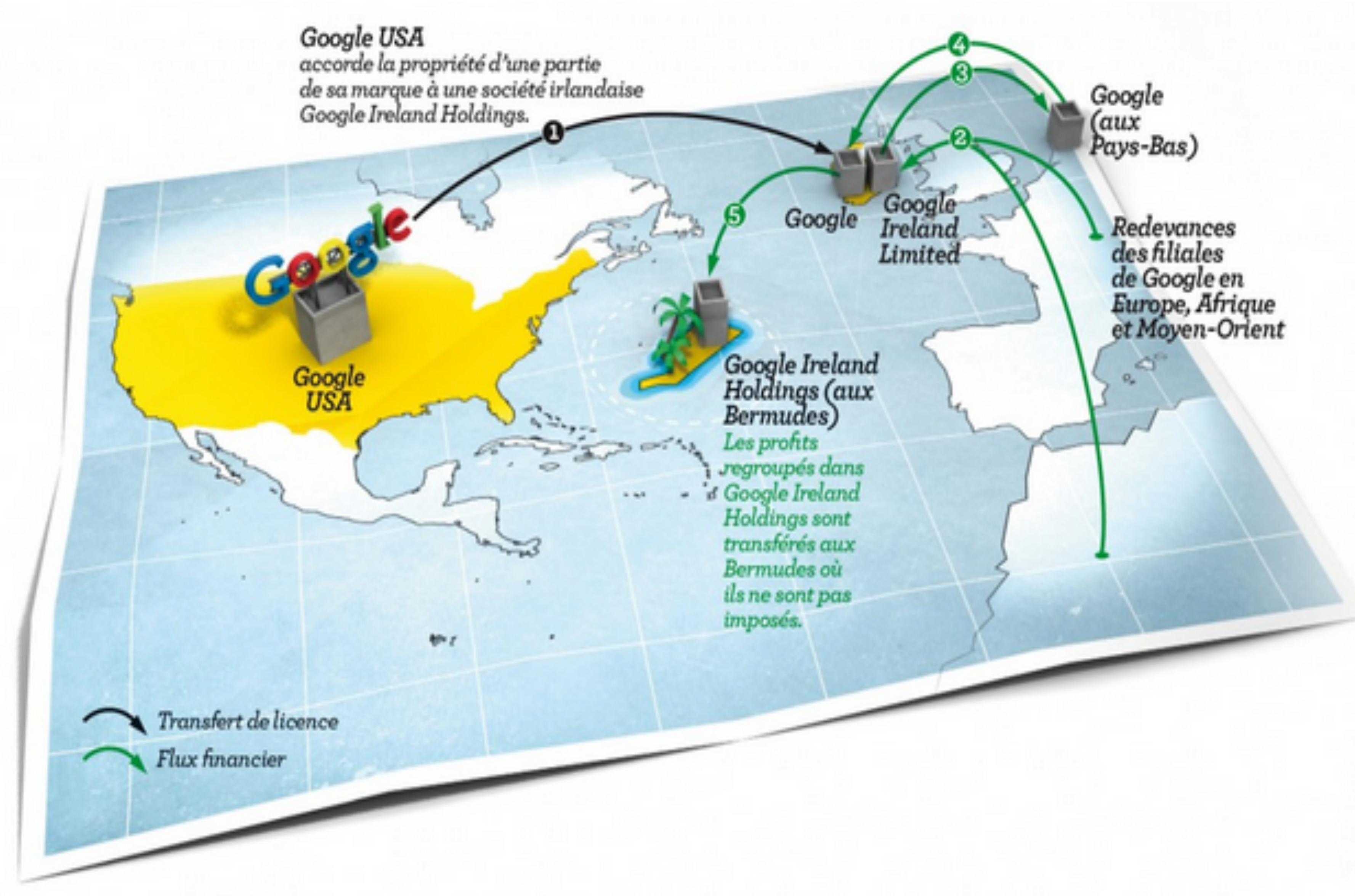
*I'm a US Company & I'm "~~Dodgin~~g" "Saving" lots of Taxes*

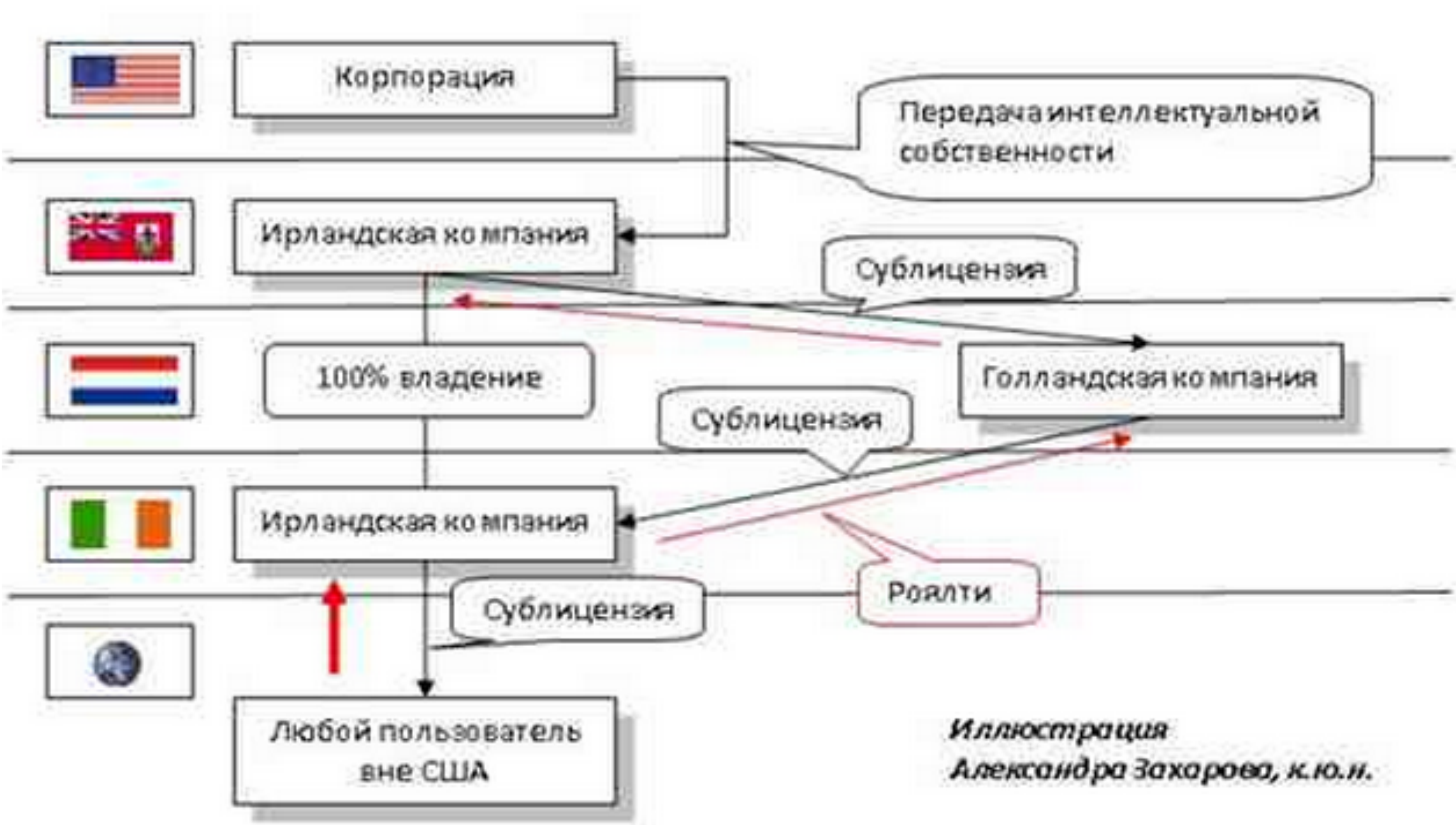

Double Irish with a Dutch Sandwich
Die Schädigung des Allgemeinwohls durch Google
4.
3.
Holland
Ireland
5.
2.
BERMUDA
1.
1. Weltweite Milliardengewinne fliessen zur Google Ireland Ltd. nach Irland.
2. Das Geld wird dann nach Holland, zur Google Netherlands Holding B. V., transferiert.
3. Von Holland fliesst das Geld wieder zurück nach Irland, in die Google Irelands Holdings.
4. Von Irland wird das Geld zur britischen Steueroase Bermuda überwiesen.
5. Google schleust damit alljährlich gigantische Milliardengewinne an den Finanzämtern vorbei.
Marlon



consumatore finale in USA
(parte dei profitti vanno alla prima sussidiaria irlandese come compensi su brevetti)
consumatore non USA
(l'incasso viene inviato ad una seconda sussidiaria)
©grafico: thecitynet.it
Sussidiaria per la produzione
(inizialmente in Irlanda ma ora in Cina, Brasile o India con spedizione al cliente finale)
Prima Sussidiaria Irlandese
(controllata da una società terza ai Caraibi senza tassazione sui profitti)
Seconda Sussidiaria Irlandese
(controllata da una società terza ai Caraibi senza tassazione sui profitti)
Paradiso fiscale ai Caraibi o...
(i profitti arrivano in un paradiso fiscale dove vengono custoditi per anni, invisibili al fisco)
Olanda
(i profitti vengono instradati verso l'Olanda per evitare la tassazione e da qui verso la prima sussidiaria)



Google USA
accorde la propriété d'une partie de sa marque à une société irlandaise Google Ireland Holdings.
Google (aux Pays-Bas)
Google
Google Ireland Limited
Redevances des filiales de Google en Europe, Afrique et Moyen-Orient
Google USA
Google Ireland Holdings (aux Bermudes)
Les profits regroupés dans Google Ireland Holdings sont transférés aux Bermudes où ils ne sont pas imposés.
Transfert de licence
Flux financier




**“Double Irish Dutch Sandwich”**

# Why do governments have heartburn?

- The double Irish sandwich results in quintruple no-taxation even though the plan touches four countries and the rest of the world
- Countries are:
  - U.S.
  - Ireland
  - Netherlands
  - Bermuda
  - All other countries that treat the revenue as business profits not subject to local tax in the absence of a permanent establishment


I CAN LOWER YOUR CORPORATE TAXES BY USING A STRATEGY THAT TAX ATTORNEYS CALL THE "DUTCH SANDWICH." AND I'M NOT EVEN MAKING THAT UP.
Dilbert.com DilbertCartoonist@gmail.com
SO... THAT WOULD TRANSFER OUR TAX BURDEN TO PEOPLE WHO CAN'T AFFORD TAX ATTORNEYS.
12-28-10 ©2010 Scott Adams, Inc./Dist. by UFS, Inc.
YEAH... THEIR SANDWICH HAS A LESS APPEALING NAME.

# Why is Google feasting?

- Google is feasting because it has faced U.S. tax rules designed to curb cross-border tax abuse by U.S.-based multinationals and has "eaten the lunch" of these provisions
- Anti-abuse provisions:
  - §367(d) imposing a deemed royalty equivalent when intangible property is transferred in a nonrecognition provision to a foreign subsidiary
  - §482 involving transfer pricing rules for the use of intangible property by a controlled business affiliate outside the U.S.
  - Subpart F Foreign Personal Holding Company Income provisions designed to prevent deferral of profits derived from the licensing income

# What is the recipe?

- <u>Step 1</u>: Form an Irish C.F.C. ("TOPCO") that is managed and controlled in Bermuda
  - Make certain that management of Topco takes important decisions in Bermuda
  - Obtain an Irish tax ruling and follow its terms precisely
- <u>Step 2</u>: Have TOPCO enter into a qualified cost sharing agreement with U.S. parent ("USP") under which Topco agrees to bear its fair share of development costs for improvements to intangible property and a proper buy-in amount
  - Make certain buy-in amount is arm's length (in a U.S. sense) based on the value of the existing intangible property
  - Some companies prefer A.P.A., other companies prefer detailed economic study
  - In either event, do not skimp on the analysis
  - If A.P.A. is obtained, there is no need to advise I.R.S. that TOPCO is not an Irish resident; focus on active business operations actually carried out by foreign members of the group

# What is the recipe?

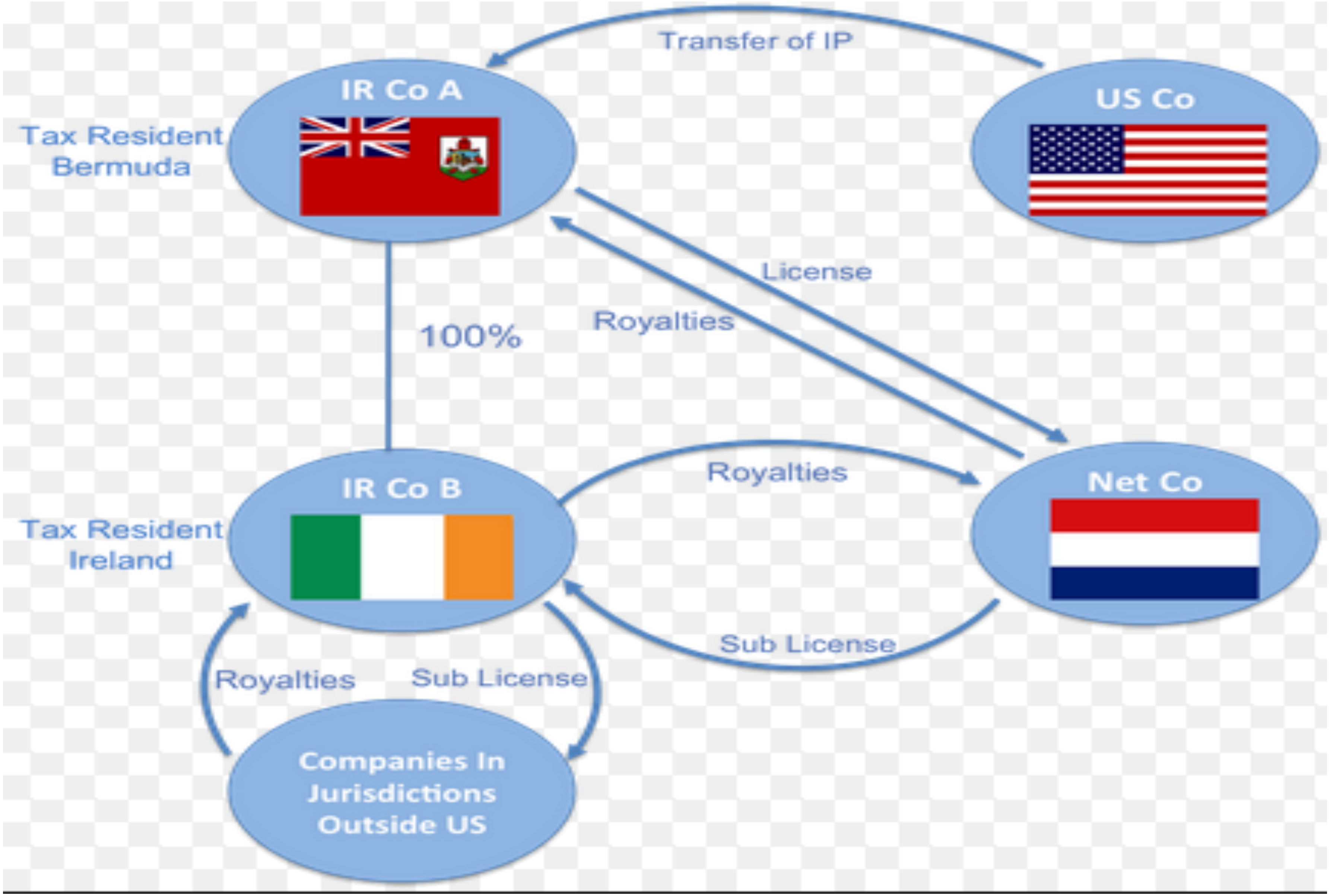
- Step 3:  Have TOPCO form Dutch subsidiary (“DCO”) to serve as licensing company and Irish subsidiary (“OPCO”) to carry on active business operations
  - Make certain to staff OPCO with real people at a real facility
    - A target of 2,000 employees working at a state of the art facility is the goal
    - If possible, obtain Irish tax ruling that OPCO is engaged in active trade
  - Make certain that DCO and OPCO are eligible to make check-the-box elections
    - An Irish Ltd. And a Dutch B.V. will do nicely
- Step 4: Make check-the-box elections for DCO and OPCO

# What is the recipe?

- Step 5: At this point, have TOPCO license its rights under the qualified cost sharing agreement to DCO and have DCO enter comparable license agreement with OPCO
  - Make certain to attend to the following at this point so that the pot does not boil over
    - DCO obtains a tax ruling in the Netherlands regarding the required spread that will be taxed in the Netherlands; this will require a proper economic analysis explaining the limited role of DCO in the value chain
    - OPCO obtains a tax ruling in Ireland, if appropriate, demonstrating that the amount of the license fee is arm's length in light of the importance of the IP in relation to the relatively low value of services performed
    - Because the check-the-box election converts TOPCO, DCO, and OPCO into a single corporation for U.S. tax purposes, there is no need for PCO to obtain further I.R.S. rulings

# Implementation

- OPCO engages in profitable global business involving all markets outside the U.S.
- OPCO pays royalties to DCO, leaving relatively little net income in Ireland; royalties are not subject to Irish withholding taxes either under treaty or E.U. directives
- DCO receives royalties and pursuant to its tax ruling in the Netherlands, pays royalties to TOPCO
- TOPCO, being a tax resident of Bermuda, pays no Irish tax and no Bermuda tax
- No tax concerns in the U.S. as TOPCO, DCO, and OPCO are viewed to be a single corporation and license fee payments are eliminated


Transfer of IP
IR Co A
US Co
Tax Resident
Bermuda
License
Royalties
100%
Royalties
IR Co B
Net Co
Tax Resident
Ireland
Sub License
Royalties
Sub License
Companies In
Jurisdictions
Outside US

# Companies that have used this recipe

1. Abbott Laboratories[10][11]
2. Adobe Systems[12]
3. Apple Inc.[2]
4. Eli Lilly and Company[12]
5. Facebook[8]
6. Forest Laboratories[12]
7. General Electric[8]
8. Google[12][8][13]
9. IBM[14]
10. Johnson & Johnson[8]
11. Microsoft[12]
12. Oracle Corp.[12]
13. Pfizer Inc.[12]
14. Starbucks[8]
15. Yahoo![15]

# Ancillary Items

- Investment income arising from build-up of profits may result in current U.S. taxation under Subpart F
- Profits of TOPCO are permanently invested outside the U.S. for financial accounting purposes and cannot be distributed or loaned to PCO
- Immediate halt to nonresident status for newly formed nonresident Irish companies, effective Jan 1, 2015, formed in non-treaty jurisdictions
- 5-year sunset provision for existing nonresident companies so that they may continue until Jan 1, 2020


I THOUGHT WE COULD give it a go as a TAX HAVEN...
WELCOME GOOGLE!

ruchelman
corporate
international
taxation

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# Important Notice