Scott Kauffman's...

IRS Tax Advocate

A Legal Newsletter

"Read About Taxpayers with IRS Problems & Learn Helpful Tips on How To End Them."

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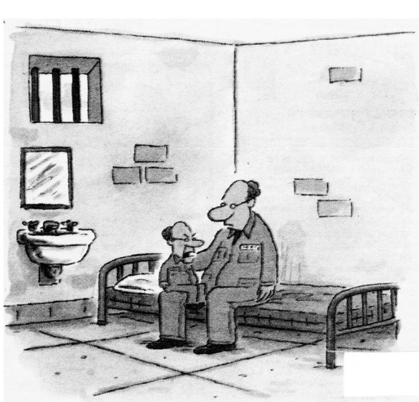
Learn How to Avoid **IRS** problems and solve them if you find yourself with one!

Inside This Issue...



"I told you we should have had separate trials."

DO OFFERS-IN-COMPROMISE STILL WORK?

It's getting tougher for taxpayers in debt with the IRS to negotiate a deal to pay a small fraction of what they owe. But turning to a private company (sometimes referred to as "Offer Mills") can backfire big time. Tax-resolution firms advertise their expertise in getting tax collectors off your back, which can include a compromise with the IRS and taking care of state tax issues. Consumers, though, may find themselves out thousands of dollars in fees and still not have a deal. While the IRS does negotiate with financially strapped taxpayers each year, it's offer-in-compromise process is very time consuming and cumbersome. The IRS rejects the vast majority of offers. In 2007 it accepted only 12,000 offers, down from 20,000 in 2004. Many taxpayers hire private companies to haggle for them, but it is not always the best strategy. Besides paying up front fees reaching into the thousands of dollars, the companies often do not deliver what they promised. After receiving numerous complaints, state officials sued JK Harris, which bills itself as "the nation's largest tax resolution company." The company recently announced that it had entered into settlement agreements with 18 states that included paying consumers $1.5 million in restitution. New York City's Department of Consumer Affairs announced that the law firm of Roni Lynn Deutch of North Highlands, California, agreed to pay $300,000 to settle the city's lawsuits alleging deceptive advertising.

ONLINE SELLERS FACE NEW IRS RULES

If you regularly sell items on online auctions, you are now on the IRS's radar. Recent legislation aims to help the IRS collect more taxes from online enterprises. PayPal and other processors are now required to report annual gross receipts for its customers to the IRS with 1099s.

OFFSHORE ACCOUNT HOLDERS BITING NAILS

As Government officials intensify a multi-national crackdown on offshore bank accounts, wealthy Americans using them to illegally shield income are facing a difficult decision: Turn themselves in

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RULES OF HOME-OFFICE DEDUCTIONS

It's easy to be hazy about just when you can write off housing expenses if you're self-employed. Here's three rules you should know. You should take all the deductions to which you're entitled if you work at home. One of the biggest is writing off a portion of your rent or mortgage costs, not to mention utilities and other related housing expenses. The advantage of doing so, of course, is to reduce your taxable income and hence, the amount of self-employment tax you owe. But knowing whether you are eligible to write off a portion of your home as a business expense is tricky. The key is in knowing what the words "exclusive," "regular" and "principal" mean. But don't bother whipping out the Webster's for this one. Your workspace must comply with all three. Meeting the "exclusive use" rule: Rule No. 1: "The part of your home used for business must be used exclusively for business." That means a space devoted solely and wholly to your business and nothing else. It does not mean a space you also use for other activities. So if you and your spouse each run your own home business and share the same room as an office, neither of you has "exclusive" use of the work space. Hence, neither of you gets to take the deduction. Or, let's say you do your work at the dining room table, the very same table at which you host dinner parties. You can't take any deduction for the dining room. The two exceptions to this rule are running a daycare business out of your home and using a part of

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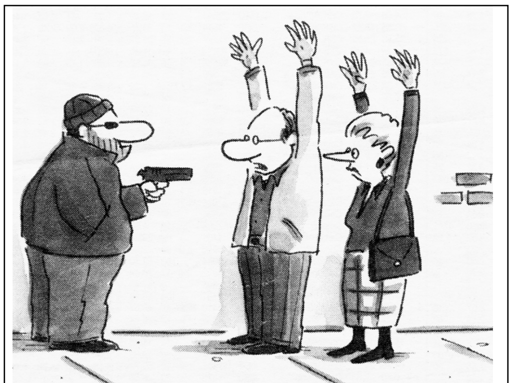

"Didn't you used to manage our mutual fund?"

OFFSHORE ACCOUNT HOLDERS cont.

and – if so – how? They can confess and plead for mercy. They can quietly file amended returns, pay up, make the necessary disclosures, and hope overworked prosecutors do not follow up. Or do nothing and pray their names never show up. The cause for the disquiet is that major cracks are showing in the wall of secrecy surrounding bank accounts in tax havens such as Switzerland and Liechtenstein. No longer can individuals rely on a country's bank secrecy laws. The IRS has confirmed it is investigating more than 100 U.S. taxpayers in connection with accounts in Liechtenstein. Joining the U.S. investigation are Australia, Canada, France, Italy, New Zealand, Sweden, and the United Kingdom. IRS estimates offshore tax evasion results in $100 billion in lost revenue each year.

WESLEY OFF TO THE HOOSEGOW?

Lawyers for Wesley Snipes have filed notice to appeal his federal tax conviction. The 45-year-old action star was sentenced to three years in prison on three misdemeanor counts of willful failure to file his income tax returns. He will remain free until he's ordered to surrender by the federal Bureau of Prisons. Snipes' attorneys filed the notice for the 11th U.S. Circuit Court of Appeals. The two-page filing doesn't specify the nature of their argument. Snipes was acquitted of five other counts in February, including two felonies.

CHARITABLE WRITE-OFF SCAMS

A recent criminal case involving wealthy donors, religious groups, and secret kickbacks of donations provides a great lesson in how not to give to charity. The Justice Department contends that two men solicited millions of dollars in contributions to charitable organizations by promising to secretly refund 80% to 95% of the sums donated. The donors would then deduct the full amounts of the original gifts on their tax returns. In all, eight individuals and five charitable entities have been indicted in the *Spinka* case. The Government has accused Rabbi Naftali Tzi Weisz and Rabbi Zigelman of soliciting donations to Spinka related groups. In some instances contributors received cash payments through an underground money transfer network involving various parties. One individual has admitted to facilitating tax evasion by setting up secret bank accounts in Israel using bogus trusts. In all, the Government is targeting more than 100 donors. In recent years, the IRS has been turning up the heat on other abuses ranging from fabricating deductions to making improper, noncash valuations. They have also been cracking down on preparers who manufacture phony deductions, obtaining criminal convictions and injunctions. The IRS is also concerned about the upturn in cases in which taxpayers have disguised tuition payments as tax-deductible contributions to charitable organizations where the contributions are earmarked for the benefit of a particular individual.

RULES OF HOME-OFFICE DEDUCTIONS cont.

your house to store business inventory. What you can do is to allocate a portion of a room exclusively for work — e.g., a 3'x2' desk in the bedroom. If you use that desk for nothing but your business, you may be eligible to deduct the cost for those six square feet of space, assuming the desk also meets rules 2 and 3 below. Personal events like the birth of a baby or the addition of Grandma Jones to the household can mean changing where you work in your home in the course of year. That's why you should take time-stamped pictures of your exclusive work space, so that if they change, you have proof that, say, for the first half of the year, you worked in the basement and for the second half you worked at a desk in the bedroom. Meeting the "regular use" rule. Rule No. 2: "The part of your home used for business must be used on a regular basis for business." You're self-employed and rent an office or studio outside of your home. But sometimes you use a room in your house to conduct some business – perhaps to bring clients by to see your work. Since the room isn't your regular place of business, you may not deduct it. If, on the other hand, you designate one room in your house for the exclusive purpose of having regular meetings with clients because, say, your office or studio is always a mess, then you may deduct it. Meeting the "principal place of business" rule. Rule No. 3: "Your home office, studio or workshop must be your principal place of business." To meet the "principal" rule, your place of business has to meet one of three criteria: it's where you do your administrative tasks like bookkeeping; it's the place where you bring clients; or it's a separate structure. It does not mean the place where you do *most* of your business. So you may rent an office in town, but use a portion of a room in your house to do your bookkeeping. The costs for that portion of the home, assuming it's used exclusively and regularly for bookkeeping, may be deducted. Writing off equipment. Whether or not you're eligible to write off a portion of your housing costs as a business expense, you may be eligible to write off the cost of equipment you use at home in the service of your business, such as a fax machine or a second phone line dedicated to business calls. But it gets tricky when a piece of equipment can be construed as one you also use for personal activities. For instance, you may not deduct the first phone line in your home, even if it's your only phone line. That's because the assumption is that your only phone is for personal use. You may, however, deduct the bells-and-whistles you add for business purposes, such as call-waiting. And you may deduct the

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OTHER NOTABLE TAX DEADBEATS

Spiro Agnew. It should come as no surprise that the right-hand man of "Tricky Dicky" Nixon missed being on the straight and narrow. In 1973, just after Nixon and Agnew were re-elected to their second term, Agnew was investigated for tax evasion and money laundering. Agnew resigned and was sentenced to three years probation and fined $10,000. In 1981, he was ordered by a Maryland court to repay the nearly $300,000 he accepted in bribes while in office. *Boris Becker*. The German tennis star was convicted in 2002 and was forced to pay over 3 million Euros. In the early 1990s Becker avoided paying German taxes by living in Monaco, but still keeping an apartment in Munich. *Willie Nelson*. In 1990, the IRS sent him a bill for $16.7 million. Willie in turn released a double album titled: "The IRS Tapes, Who'll Buy My Memories." The IRS ceased and sold almost everything Willie owned. Willie's friends purchased most of the items and returned them free of charge. [Question: What has six teeth and three hundred legs? Answer: The front row of a Willie Nelson concert.] *Darryl Strawberry*. He was baseball's number one draft pick in 1980 and Rookie of the Year in 1983. In addition to breaking his wife's nose, hitting his pregnant girlfriend, violating probation, soliciting sex from an undercover police officer, possession of cocaine, and a hit-and-run while on painkillers, in the 1980's he failed to pay taxes on income he made from autograph and memorabilia shows. (Pete Rose went to prison in 1990 for the same offense.) Strawberry was convicted in 1995 and ordered to pay back more than $450,000. *Richard Hatch*. The first winner of *Survivor* was convicted in 2006 for failing to report his $1 million in show winnings. Hatch said he simply forgot to. Hatch is now in prison and is expected to be released in October 2009. *Leona Helmsley*. The "Queen of Mean" was convicted in 1989 of tax evasion relating to renovations she and her husband made to their $11 million estate. Helmsley's maid quoted her as saying that "Only the little people pay taxes." She spent 18 months in prison for cheating the Government out of a million dollars in taxes. Helmsley died in 2007 with an estate of $4 billion, $12 million of which she left to her white Maltese, Trouble. *Joseph Nunan*. The former commissioner of the IRS (1944 to 1947) was busted for tax evasion in 1952 for winning an $1800 bet that Harry Truman would win the election and neglecting to report his winnings on his tax return. *Al Capone*. As head of the Chicago underworld, Capone was involved in some less than legal activities. Dubbed Public Enemy Number 1, he became the subject of an intense FBI investigation. It was tough going for them because Capone owned nothing in his own name and used front men. During a routine raid on a Capone warehouse, Elliot Ness (who later died an alcoholic) stumbled across a desk drawer containing Capone's account information. He was sentenced to 11 years in prison. There were numerous attempts on his life, and ravaged by the syphilis he contacted in his youth. Suffering from syphilitic dementia, he was released from prison in 1939 and lived out the remainder of his days in Florida.

RULES OF HOME-OFFICE DEDUCTIONS cont.

cost of individual business calls. If you only have one computer and you use it for business, you may be able to write off a part of its cost, but writing off 100 percent may not be wise. In the event of an audit, it may be hard to prove that you don't use the computer for personal reasons as well. There is a fallacy that deducting a portion of your housing costs will be a red flag to the IRS, but this has not been my personal experience. There may, however, be other elements on your return that do present a red flag. For example, a taxpayer who has a salaried job making $100,000 but a side business as a photographer for which he deducts a portion of his housing costs. What may trigger an audit is not that deduction, but rather his reporting $200 in income, but $5,000 in expenses. Never hide income, only deduct legitimate expenses and to keep meticulous records to back up their deductions. That way, if the IRS ever does audit you, you won't be penalized. But if the auditors — either through a home visit or a meeting with you in their offices — determine you fraudulently claimed a deduction, you'll be subject to a penalty for fraud in addition to other interest and penalties for taking a deduction to which you're not entitled.

AND THEN THERE'S AL SHARPTON

The Rev. Al Sharpton has emerged over the past decade as one of the most prominent civil rights leaders, but he and his business entities owe in excess of $1.5 million. The United States Attorney is investigating his nonprofit group, the National Action Network. The group is also attempting to pay off thousands of dollars it owes for failing to maintain workers compensation and unemployment insurance. The group now has new accountants and a new administrative team and recently filed long overdue returns. Sharpton's own debts include $365,000 owed to New York City, $176,000 to the State of New York, and $932,000 to the IRS. As many as 10 of his associates have received grand jury subpoenas.

WHAT IF I DIDN'T FILE?

About 10.3 million taxpayers filed for an automatic six-month extension. Many Americans, however, filed neither their returns nor an extension. The cost of not filing is considerably higher this year than last. This year you must file by October 15th in order to receive your economic stimulus payment. The IRS estimates the Treasury loses $25 billion annually from those who fail to file a return. If you fail to file a return, you will get hit with interest and penalties. Many people with refunds believe they have an unlimited time to file. ***Wrong!*** They must file within three years of the due date of their return. In April, Treasury said that 1.3 million people were in danger of losing $1.2 billion in refunds because they did not file a return for 2004. The problem increases if you haven't filed for several years and owe a large amount of money. Case in point is actor Wesley Snipes who was convicted on three misdemeanor counts of failing to file and faces up to three years in prison. President Bush has urged Congress to impose criminal penalties on anyone who fails to file in any three years within a five consecutive years period if the total tax liability exceeds $50,000.

Scott Kauffman, A Professional Law Corp.
19900 MacArthur Blvd., Suite 1150
Irvine, California 92612

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