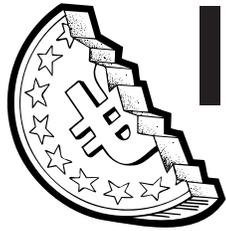


Scott Kauffman's...



IRS Tax Advocate



A Legal Newsletter

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

Volume VI, Issue 22
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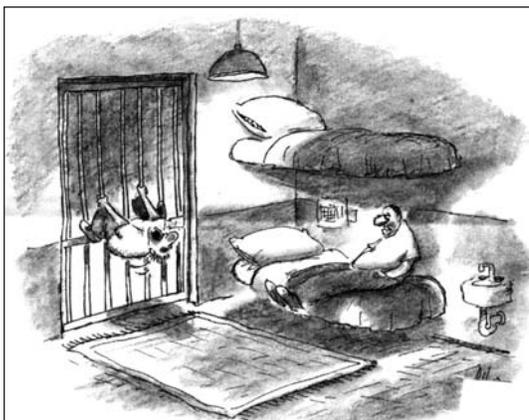
Learn How to Avoid

IRS

problems and solve them if you find yourself with one!

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"This must be especially difficult for someone used to getting his own way."

DODGING THE AUDIT BULLETT

The IRS is auditing more upper-income individuals even as it has decreased its overall audit rate. The IRS audits about 1% of all individual returns, but at the same time it increased their scrutiny of those earning more than \$200,000 a year, up 16% from 2007 and 49% from 2006. Your chances of being audited are especially high if you are self-employed and deal in large amounts of cash. IRS is also turning up the heat on those it suspects of hiding income abroad. Many mundane factors can trigger an audit such as claiming unusually high expenses in relation to your income, or if your income does not match what has been reported by your employer or financial institutions, or if the IRS received a tip that you were cheating on your return, or if you have invested in a tax shelter, or if you have deducted hefty losses from a side business that is really a hobby. The IRS is also probing the returns of numerous foreign athletes and entertainers who spend time in the U.S. and receive large amounts of what the IRS considers to be taxable U.S. income, such as payments for endorsements. One factor contributing to the decrease in audits is the decrease in Revenue Agents. Another factor was that the IRS was assigned to handle to the economic-stimulus payments.

NEW ADMINISTRATION, SAME ETHICAL CHALLENGES

Prior to his swearing in, President-elect Barack Obama's transition team was forced to defend Treasury Secretary-designate Tim Geithner amid reports he failed to pay the correct amount on his taxes for a period of time and employed a housekeeper whose work authorization had expired. Barack Obama's team says Tim Geithner, "quickly addressed" the mistakes he made. Members of the Senate Finance Committee met with Geithner over concerns about his personal taxes and the immigration status of a former worker, transition officials said. According to a statement by the committee, Geithner failed to pay self-NEW

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“DANCING” CHAMP DENIES TAX EVASION CHARGES

With tears in his eyes, famed racecar driver and “Dancing with the Stars” champ Helio Castroneves pleaded not guilty to a seven-count tax evasion indictment. Castroneves, 33, appeared in court wearing handcuffs and leg chains, and was ordered release on \$10 million bail. The two-time Indy 500 winner paid \$2 million cash and signed an \$8 million personal surety bond and left immediately to catch a flight to Atlanta, Georgia. Castroneves, his sister Katiucia, and his attorney, Alan R. Miller, are accused of conspiring to conceal \$5.5 million in offshore accounts between 1999 and 2004. Each count carries a maximum five-year prison sentence. The Government alleges that income Castroneves received from Coimex Internacional and Penske Racing was placed in an offshore Panamanian shell corporation. The indictment states that Castroneves lied about his income on his tax return. His attorney described the offshore account as a pension plan used by celebrities like the Rolling Stones.



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IT OUT

ADMINISTRATION, SAME ETHICAL CHALLENGES
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employment taxes for money he received while working for the International Monetary Fund from 2001-2004. In 2006, the Internal Revenue Service audited Geithner for tax years 2003 and 2004, and he paid \$16,732 for the taxes and interest for those years, the statement said. After Obama nominated him for treasury secretary, Geithner voluntarily amended his taxes for 2001 and 2002, paying \$25,970 for those taxes and interest, the committee said. As an international organization, the IMF does not withhold money from employees' paychecks for Social Security and Medicare. U.S. employees are required to pay them on their own. Gibbs, the incoming White House spokesman, called Geithner's tax issue a "common mistake." On the second issue, Geithner and his wife employed a housekeeper whose employment authorization document expired about three months before she stopped working for them in October 2005, according to a statement from the Finance Committee. The housekeeper, who is married to a U.S. citizen, later was granted a green card, transition officials said. Committee Chairman Max Baucus, D-Montana, said that, in his judgment, the errors were "honest mistakes" that "do not rise to the level of disqualification."

IRS OFFERING LENIENCY PLAN

The IRS announced steps to be more lenient on taxpayers not able to pay taxes owed, in recognition of the financial troubles running through the economy. IRS Commissioner Shulman stated that while the IRS will continue to enforce the law, it will also be flexible with taxpayers *where necessary*. The IRS may suspend collection actions in certain circumstances, such as when a taxpayer recently lost his job, is relying on Social Security benefits, or has incurred unexpected medical costs. The tax debt will not be extinguished, but collection action will be temporarily suspended. Also, if a taxpayer misses an installment payment, his installment agreement may not necessarily be automatically terminated. The IRS will also broaden eligibility for the offer-in-compromise program by considering some taxpayers who appear to have sufficient equity in their home to pay their tax debt.

TAX EVADERS COME CLEAN WITH IRS

Wealthy clients of Swiss Bank UBS, AG, are stepping forward to make amends with tax authorities, a sign that IRS efforts to battle offshore tax evasion and dent Switzerland's bank secrecy

THINK YOU'RE A TRADER? THINK AGAIN

Even if you make hundreds of trades a year, you are probably not a trader and will not be eligible for certain breaks traders get. This is underscored by a recent Tax Court case where a Florida couple who formed a trading company and made more than 660 trades over two years. The court determined the couple were investors, not traders, and thus were subject to the tough limits on deducting net losses and trading related expenses. Calling yourself a trader on your return is not sufficient. In addition to doing substantial trading with continuity and regularity, the IRS says you must also be trying to profit from daily market price moves. Taxpayers must elect to use the mark-to-market method of accounting on their tax returns, which means securities are treated as if they had been sold at year end for tax purpose and gives rise to ordinary income and losses. Ordinary investors can offset capital gains with capital losses on a dollar-for-dollar basis, but if their losses exceed their gains, they can deduct only \$3,000 a year against ordinary income. If they qualify as a trader, however, they are not bound by the annual net-loss limits. A taxpayer qualifies as a trader only if the trading activity is substantial and the trader attempts to catch swings in the daily market movements, trying to profit from short-term changes rather than long-term holdings. The Florida couple had traded only on 63 days in 2001 and 110 days in 2002. Also, they rarely bought and sold on the same day, and a significant amount of their holdings were held for more than 31 days.

are having the desired effect. Moved to take action after a former UBS private banker was indicted and spilled valuable secrets, the UBS clients are hiring tax lawyers and pursuing amnesty through an Internal Revenue Service program that allows U.S. citizens to avoid criminal prosecution if they acknowledge evasion and agree to pay taxes and penalties. The client's actions are a boon to the IRS, which lacks the staff to go after about 20,000 U.S. citizens who U.S. authorities say worked with UBS private bankers to evade taxes. The IRS is considering a national settlement that would speed up the process for UBS clients to come forward en masse. Likely to be based upon a 2003 off-shore credit card deal, though with stiffer penalties, the settlement could obviate the need to gain the cooperation of the Swiss government. The developments amounts to a coup for U.S. authorities, who have devoted 20 years trying to crack offshore banking markets with only incremental progress. U.S. citizens on the list of UBS clients face tough options. They can gamble on UBS never turning over their name or that the IRS will lack the resources to pursue them. In 2007, the Justice Department authorized just 1,284 criminal tax prosecutions of individual defendants because investigations are resource intensive to investigate and bring to trial. UBS clients can also submit amended returns to an IRS Service Center and hope the filing is not red-flagged for possible tax evasion. Finally, clients can opt for voluntary disclosure. If successful, it yields a pass from the IRS, but it can be a grueling and painful financial exam.

FRAUDULENT TAX REFUNDS TOP \$1 BILLION

According to the Treasury Inspector General, our Government sent more than \$1 Billion in fraudulent tax refunds last year, and the IRS has too few resources to pursue every cheat. IRS investigators never looked at \$742 Million in fraudulent refunds. When the IRS finally identified an additional \$264 Million in bad refunds, it was too late to stop them from being issued. IRS is, however, improving. In 2007, it stopped more than \$1.2 Billion in fraudulent refunds, compared with \$412 Million in 2005. Because the system picks up only those refunds with higher dollar values, about 500,000 potentially fraudulent refunds did not enter the center's screening process. Had those refunds been included, the centers would have identified an additional \$742 Million in fraud. In 2006, because of a technical problem in the fraud-detection system, the IRS succeeded in identifying and stopping on \$189 Million in fraudulent refunds while paying out an estimated \$894 Million.

SMALL TAX CHEATS LEAD TO GIANT SHORTFALLS

The IRS has released a tax study sullyng the reputation of one of President-Elect Obama's most beloved icons: small business owners. These often-lauded entrepreneurs are masters of tax avoidance. Small business owners have already given themselves a huge tax reduction, underreporting 57% of their income. Estimates of Schedule C tax cheating range up to \$68 billion a year. The flip side of the coin is that wage slaves pay higher rates to make up for the scofflaws. The IRS estimates that all taxpayers underreport \$345 billion, but that it only recaptures through audits \$55 billion. The statistics are nothing new. Every April 15th Congressmen in search of cheap publicity rail about it, but they never follow up with any action. You do not get more votes if you promise more audits.

Scott Kauffman, PLC

19900 MacArthur Blvd.

Suite 1150

Irvine, CA 92612

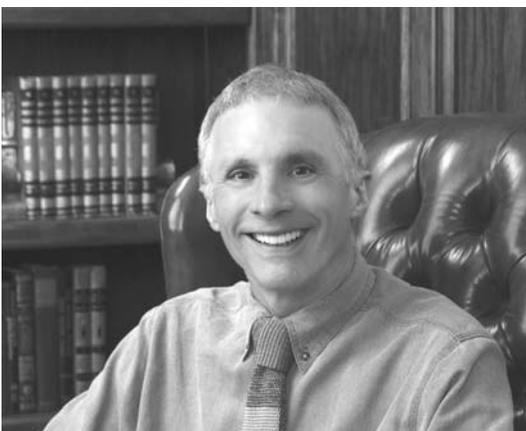
Ph: 949-474-1820

Fx: 949-474-1823

besttaxadvocate@email.com

www.besttaxadvocate.com

The Tax Advocate



BLOWING THE WHISTLE

Pssst. Want to make some easy money? If your employer, former spouse, or someone else you hate has been cheating on their taxes, read on. Since 1996, the IRS has been authorized to pay sums necessary for detecting underpayments of tax and bringing to trial and punishment persons guilty of violating the internal revenue laws. A new division of the IRS, the Whistleblower Office, was set up in 2007, and is open for business. The IRS has noted an increase in the number and quality of whistleblower claims for rewards. Just how much of an award you can expect depends on the value of your information. The amount in dispute must be more than \$2 million, and if the cheat is an individual, his income exceeded \$200,000 for any year involved. If the cheat is a corporation, the income bar does not apply. If your claim fails to meet the two thresholds, your award, if any, is left to the complete discretion of the IRS with no right to appeal to court. If you meet both the recovery and income thresholds, you are talking about serious money: Not less than 15% and not more than 30% of the amount the government collects. The actual percentage will depend on the significance of the information provided. If you are unhappy with the evaluation, you may appeal to the United States Tax Court. Once you file your claim, the Whistleblower Office will acknowledge your claim and may invite you to a conference to review and amplify the facts. You may be represented by counsel. You will have to wait several years until the amount of your reward is determined. The IRS says it will protect your identity from the alleged wrongdoer, but they nevertheless may subpoena you to testify at trial. Any reward you receive is taxable.

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

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