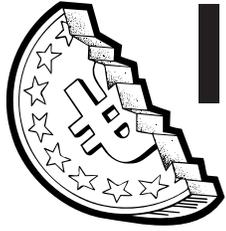


Scott Kauffman's...



# IRS Tax Advocate



A Legal Newsletter

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

Volume VI, Issue 23  
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Learn How to Avoid

# IRS

problems and solve them if you find yourself with one!

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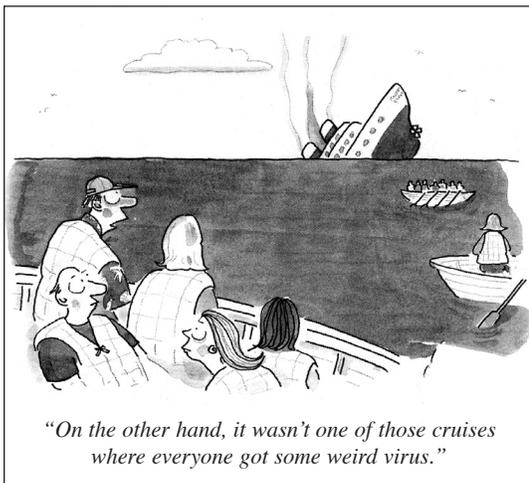
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*"On the other hand, it wasn't one of those cruises where everyone got some weird virus."*

## NO PITY FOR RICH TAX CHEATS

The swiftness with which former Senator Daschle withdrew his bid for a place on President Obama's cabinet a few months ago underscores the potency of public outrage when the rich and famous fail to pay the taxes they owe. Yet the latest IRS data shows that those with lower incomes are the ones more likely to have errors on their returns. No surprise since the wealthy are several times more likely to be audited and therefore hire armies of accountants and lawyers. IRS data for 2006 shows that for taxpayers earning over \$1 Million who were audited, the IRS recommended a change in 76% of cases, as opposed to 83% for taxpayers earning less than \$200,000. The average amount of additional tax the IRS recommended for the \$1 Million group was \$258,836 compared to \$9,521 for those making less than \$200,000.

## IRS EXPANDS USE OF JOHN DOE SUMMONSES

The IRS is about to deploy a novel legal tactic that it has used in an attempt to learn the identities of UBS AG's private-bank clients against other offshore banking operations. The Justice Department issued John Doe summonses to investigate alleged tax fraud by people whose identities are not known because of Switzerland's bank-secrecy laws and marked the first time a bank had been served with such a summons and ratchets up the pressure in the battle over tax secrecy. The IRS is now planning to pursue other banks using the same tactic and is part of the IRS's private bank initiative aimed at seeking bank clients who evade taxes. Before it can serve a John Doe summons, the IRS must seek approval from a federal judge. The summonses are used as the IRS seeks to answer critical questions such as how assets are moved offshore and then used in the future when a tax evader wants to tap untaxed income.

## IRS SUSPENDS CALIFORNIA ENROLLED AGENT

The Office of Professional Responsibility suspended Richard Hargus, a California enrolled agent, from practice before the Internal Revenue Service for 18 months because of his not per-

*continued on page 2*

## IRS SCRUTINIZING OVERSEAS MONEY

The IRS is sharpening its tools to identify U.S. holders of foreign bank accounts to ensure any taxes owed get paid. The new moves come at a time when pressure from the U.S. and Europe has dented some of the world's bank-secrecy zones. Several banking-privacy strongholds including Switzerland, Liechtenstein, and Luxembourg, have announced they will boost cooperation on specific requests concerning tax evasion. Many veteran observers, however, are skeptical how much current practices will actually change. Swiss officials have made it clear that they are not pledging automatic exchange of information. The IRS is, therefore, moving ahead to ferret out the information that might help them with their future requests. Changes to the form that individuals file to disclose their foreign bank accounts to the IRS (F-Bar Report), required to be filed by June 30th if the combined value of all foreign accounts in the previous calendar year exceeded \$10,000 include disclosing the precise dollar value of each account. Congress is also considering legislation requiring banks to report to the IRS any transfers of funds exceeding \$10,000 to offshore accounts.



"Remember, we're all in this together...except me."

forming services related to offers-in-compromise paid for by taxpayers. Hargus was employed by two separate, but now defunct companies that claimed to specialize in tax resolution services. Multiple taxpayers paid the companies for Hargus to resolve their income tax liabilities through the offer-in-compromise program. In many instances, the taxpayers either did not receive the services for which they paid or received very little assistance with resolving their tax issues. The IRS is taking a closer look at tax resolution companies and is also litigating know offer-in-compromise abuses to ensure that tax professionals fulfill their legal and ethical obligations to their clients in dealing with IRS tax matters.

## BEWARE OF IRS' 2009 "DIRTY DOZEN" TAX SCAMS

The Internal Revenue Service has issued its 2009 "dirty dozen" list of tax scams and urges taxpayers to avoid these common schemes: *Phishing* is a tactic used by Internet-based scam artists to trick unsuspecting victims into revealing personal or financial information. The criminals use the information to steal the victim's identity, access bank accounts, run up credit card charges or apply for loans in the victim's name. Phishing scams often take the form of an e-mail that appears to come from a legitimate source, including the IRS. The IRS, however, never initiates unsolicited e-mail contact with taxpayers about their tax issues.

*Hiding Income Offshore* is aggressively pursued by the IRS against taxpayers and promoters involved in abusive offshore transactions. Taxpayers have tried to avoid or evade U.S. income tax by hiding income in offshore banks, brokerage accounts or through other entities. Recently, the IRS provided guidance to auditors on how to deal with those hiding income offshore in undisclosed accounts. The IRS draws a clear line between taxpayers with offshore accounts who voluntarily come forward and those who fail to come forward. *Filing False or Misleading Forms* involves filing false or misleading returns to claim refunds that they are not entitled to. *Abuse of Charitable Organizations and Deductions* is used to misuse tax-exempt organizations and includes arrangements to improperly shield income or assets from taxation and attempts by donors to maintain control over donated assets or income from donated property. *Return Preparer Fraud* involves dishonest return preparers who can cause many headaches for taxpayers who fall victim to their ploys. Such preparers derive financial gain by skimming a portion of their clients' refunds and charging inflated fees for return preparation services. Taxpayers should choose carefully when hiring a tax preparer. *Frivolous Arguments* by promoters of schemes encourage people to make unreasonable and unfounded claims to avoid paying the taxes they owe. *False*

## HOW TO AVOID A UBS-STYLE MESS

The widening UBS, AG tax case holds a lesson: Americans who bank in Switzerland or some other foreign locale should not hide an account from the IRS. While there is nothing illegal for an American to have offshore accounts, it is easy to land in trouble with them. The account and the income therefrom must be reported on the taxpayer's return and the account must be detailed on a Report of Foreign and Financial Accounts (FBAR), which is due on June 30th and is not filed with the income tax return. In reality, there are only a few good reasons to hold funds offshore such as a foreign business, making it harder for creditors to seize assets, or protecting money in case of a U.S. bank failure. Be wary of sales pitches aimed at creating an exotic structure such as a company a foreign lawyer pulls off his shelf to mask the real owner or a trust that purports to shelter income without any tax or reporting obligations. Run proposals like these by a reputable tax lawyer. If you were duped into depositing funds offshore and failed to report the account or the income on your return, consult with a tax lawyer about making a voluntary disclosure. The IRS and Justice Department have programs that may give taxpayers a bit more lenient treatment if they step forward rather than waiting for that knock on their door.

# CHECK

Look back at newsletter issues,  
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# IT OUT

*Claims for Refund and Requests for Abatement* is a scam involving a request for abatement of previously assessed tax using Form 843, Claim for Refund and Request for Abatement. Many individuals who try this have not previously filed tax returns. The tax they are trying to have abated has been assessed by the IRS through the Substitute for Return Program. *Abusive Retirement Plans* is another scheme where the IRS continues to uncover abuses, including Roth Individual Retirement Arrangements (IRAs). The IRS is looking for transactions that taxpayers are using to avoid the limitations on contributions to IRAs as well as transactions that are not properly reported as early distributions. Taxpayers should be wary of advisers who encourage them to shift appreciated assets into IRAs or companies owned by their IRAs at less than fair market value to circumvent annual contribution limits. Other variations have included the use of limited liability companies to engage in activity which is considered prohibited. *Disguised Corporate Ownership* is used by some in certain states for the primary purpose of disguising the ownership of a business or financial activity. Such entities can be used to facilitate underreporting of income, fictitious deductions, non-filing of tax returns, participating in listed transactions, money laundering, financial crimes, and even terrorist financing.

*Zero Wages* is attempted by filing a phony wage or income related information return to replace a legitimate information return as an illegal method to lower the amount of taxes owed. Typically, a *Form 4852* (Substitute Form W-2) or a "corrected" Form 1099 is used as a way to improperly reduce taxable income to zero. The taxpayer also may submit a statement rebutting wages and taxes reported by a payer to the IRS. Sometimes fraudsters even include an explanation on their Form 4852 that cites statutory language on the definition of wages or may include some reference to a paying company that refuses to issue a corrected Form W-2 for fear of IRS retaliation. Taxpayers should resist any temptation to participate in any of the variations of this scheme. *Misuse of Trusts* has been used for years by unscrupulous promoters who urge taxpayers to transfer assets into trusts. While there are many legitimate, valid uses of trusts in tax and estate planning, some promoted transactions promise reduction of income subject to tax, deductions for personal expenses and reduced estate or gift taxes. Such trusts rarely deliver the promised tax benefits and are being used primarily as a means to avoid income tax liability and hide assets from creditors, including the IRS. The IRS has recently seen an increase in the improper use of private annuity trusts and foreign trusts to divert income and deduct personal expenses. As with other arrangements, taxpayers should seek the advice of a trusted professional before entering into a trust arrangement. *Fuel Tax Credit Scams* are being received by the IRS that involve the

## IRS CUTS PENALTIES TO LURE TAX EVADERS

The IRS is offering leniency to wealthy Americans who volunteer to pay taxes owed on money stashed in offshore accounts in exchange for information on the bankers who helped them hide the money. Taxpayers who take the offer, open until September 2009, will face lower penalties and likely avoid criminal prosecution by helping the IRS develop intelligence on bankers, attorneys, and accountants who assist the wealthy hide assets from tax authorities. The offer increases the likelihood that the IRS and the Justice Department will be gunning for major financial firms. Under the program, account holders must disclose unreported offshore income, and pay back taxes and interest, and paying a penalty equivalent to 20% of the value of an account during the tax year in which the account had its highest value. While severe, previously a taxpayer could have wound up owing more in tax, interest, and penalties than the value of the foreign account.

### Scott Kauffman, PLC

19900 MacArthur Blvd.

Suite 1150

Irvine, CA 92612

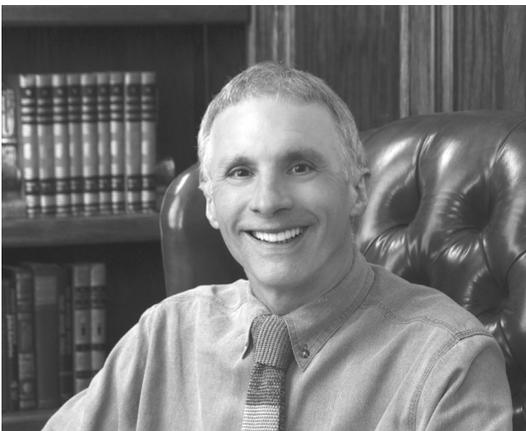
Ph: 949-474-1820

Fx: 949-474-1823

besttaxadvocate@email.com

www.besttaxadvocate.com

## ***The Tax Advocate***



fuel tax credit that are unreasonable. Some taxpayers, such as farmers who use fuel for off-highway business purposes, may be eligible for the fuel tax credit. But some individuals are claiming the tax credit for nontaxable uses of fuel when their occupation or income level makes the claim unreasonable. Fraud involving the fuel tax credit is considered a frivolous tax claim, potentially subjecting those who improperly claim the credit to a \$5,000 penalty.

## SWISS SURRENDER!

In an extraordinary break from Switzerland's tradition of banking secrecy, UBS has turned over the names of 250 account holders as part of a \$780 million settlement with United States prosecutors. Had UBS not turned over the list, it would have been subject to criminal indictment. The U.S. government has conducted a wide-ranging tax-evasion probe over the Swiss bank's offshore private-banking services for wealthy Americans. It became the focus of criminal and civil probes in 2007 when a former executive told U.S. officials that the bank had been telling American customers in 2002 that it was not required to disclose their identities to the IRS. U.S. prosecutors estimate that UBS holds \$20 billion in assets for American clients, which generated \$200 million a year in revenues for the bank. The agreement marks the first time Swiss financial regulators have allowed one of their banks to reveal the identity of account holders normally held secret under centuries of Swiss banking tradition. While closing the criminal case against UBS, the civil case in which the U.S. seeks the names of 19,000 customers remains open.

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

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