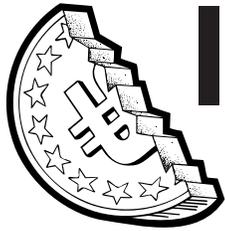


Scott Kauffman's...



IRS Tax Advocate



A Legal Newsletter

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

Volume VI, Issue 24
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Learn How to Avoid

IRS

problems and solve them if you find yourself with one!

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QUIET DISCLOSURE RISKY FOR OFFSHORE ACCOUNTS

Flying in under the radar is no longer safe for those with secret offshore accounts who want to land on legal ground. Recent IRS guidance has raised questions about whether the agency will continue allowing account holders to simply file amended returns and pay back taxes and penalties in order to avoid criminal prosecution for tax evasion. On May 6th, the IRS stated that individuals must now flag their accounts to the IRS and go through the formal disclosure program, which may lead to higher penalties, including criminal prosecution. Account holders who have attempted quiet disclosure have until September 23rd to make a formal disclosure, which is initiated by the account holder's attorney contact the IRS's Criminal Investigative Division. The move by the IRS comes as it continues its crackdown on offshore accounts through a high profile investigation involving thousands of taxpayers with Swiss bank accounts managed by UBS AG.

IRS TARGETS YOUR CELL PHONE

The use of company issued mobile phones could trigger new federal income taxes for millions of Americans as a fringe benefit. The IRS has proposed that employers assign 25% of an employee's annual phone expense as a taxable benefit. The IRS is saying that employees could avoid the tax liability if they showed proof they used personal cell phones for nonbusiness calls during work hours. The IRS may also decide on a set number of phone minutes as minimal personal use that would be untaxed. In a third option proposed by the IRS, employers could use a statistical sampling to determine what portion of workers' cell phone use is personal and how much is work related.

SWISS TO TURN OVER U.S. TAX NAMES

The Swiss government stated it would turn over to U.S. authorities by August 2010 the names of U.S. taxpayers with UBS accounts of more than 1 million Swiss francs (\$993,000); those holding suspicious accounts as low as 250,000 francs if the account was held through entities such as trusts, corporations, or foundations, especially if the account holder had special cell phones or credit cards attached to the account that eased access and helped ensure secrecy, or failed to disclose U.S. citizenship when opening the account;

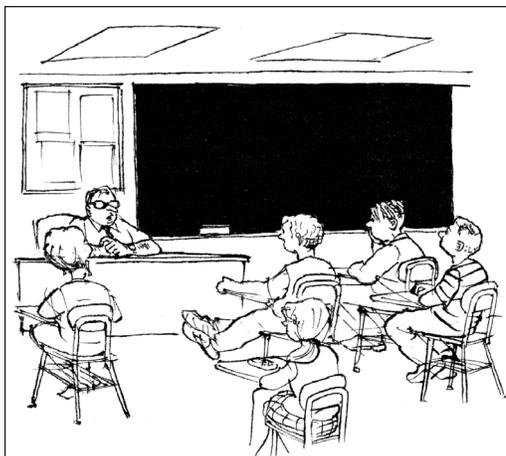


“It's their fault for leaving the gate open.”

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TAX COURT JUDGES ARE SUCH PRUDES

A taxpayer was denied a medical expense deduction for amounts paid to prostitutes and for medical text and pornographic materials. Citing several books and magazine articles, the taxpayer argued of the positive health effects or sex therapy. The Tax Court, however, said that the Treasury Regulations specifically provides that a taxpayer is not entitled to a medical expense deduction for any illegal operation or treatment. Moreover, since his doctor did not prescribe a treatment for any medical condition, the taxpayer's payments were nondeductible personal expenses. Because the taxpayer was a tax attorney for 40 years, he had no reasonable basis to claim the deduction and was liable for the accuracy-related penalty for substantial understatement of tax.



"You may be interested to know: At least one of your classmates was concerned enough about his grades to leave an envelope of cash on my desk yesterday afternoon."

and indirect ownership of an undisclosed account that generated an average of 100,000 Swiss francs per year in interest, dividends, and capital gains for any three years from 1998 to 2008.. IRS says the same standards apply to other Swiss banks and could be used to identify U.S. taxpayers holding secret accounts elsewhere in the country. Sen. Carl Levin, who chairs a committee investigating off-shore banking, called the agreement "very disappointing" because he believes that the many limitations show that the Swiss government as much bank secrecy as it can for the future while pushing to conceal the names of tens of thousand of those suspected of underpaying.

IRS VIOLATES TAYPAYER LIEN NOTIFICATION RIGHTS

The Treasury Inspector General for Tax Administration had determined that the IRS failed to take the necessary actions to notify taxpayers and their representatives of Notices of Federal Tax Liens filed by the IRS. The IRS will file a tax lien against a taxpayer's assets when it has a claim for unpaid taxes. For the year ending June 30, 2008, it filed over 700,000 lien notices. After filing the lien, the IRS must notify the taxpayer within 5 business days at their last known address as well as the taxpayer's representative. While in the sampled cases, the IRS notified the taxpayer in every case (up from 3% the year before) in 30% of the cases the IRS failed to notify the taxpayer's representative (improved from 76% the year before). If the lien notification letter is returned to the IRS as undeliverable, the IRS is supposed to check the accuracy of the taxpayer's address, but failed to do so in 83% of cases.

IRS EVALUATIONS STILL REFERRING TO ENFORCEMENT RESULTS

The Treasury Inspector General for Tax Administration reports that IRS managers are still using enforcement results to evaluate their employees in a small number of performance reviews. Before Congress passed the 1998 IRS Restructuring and Reform Act, the IRS could not evaluate collection personnel based on tax enforcement results or impose quotas. The Reform Act extended this prohibition to all IRS employees and not just those individuals engaged in collection activity. Further, IRS managers must certify in writing whether tax enforcement results are used to evaluate employees or if they impose production quotas. TIGTA reviewed more than 600 employee evaluations and manager self-assessments and found references to tax enforcement results in 1 percent of the evaluations and assessments. According to TIGTA, this is the third consecutive year that the IRS has failed to achieve full compliance and heightens concern that the IRS is moving away from full compliance.

IRS CONTINUES CRACKDOWN OF OFFSHORE ACCOUNTS

The IRS is stepping up scrutiny of offshore accounts and foreign

IRS TO MINE MORTGAGES

The IRS will be expanding a program designed to catch those it believes are underpaying their taxes that searches for inconsistencies between mortgage payments and income by making greater use of data on mortgage interest payments. The IRS currently uses such data to send notices to nonfilers who it believes should have filed returns. The data could also be used to target for audit those individuals who do not file tax returns or who report less income than they paid in mortgage interest. The IRS move is expanding a regional research project on mortgage interest to a nationwide level by December 2011. The initiative will involve examination of a small number of returns to evaluate new enforcement strategies. The data might be the best source of information on small-business owners, such as roofers and carpenters, who are paid in cash and fail to report all of their income to the IRS. It could be one of the few trails the IRS can pursue to find out if there is income coming in. The initiative could, however, snare taxpayers who have coped with job losses by borrowing or using savings or retirement accounts to make their house payments. IRS says that in 2005 tens of thousands of homeowners who paid more than \$20,000 in mortgage interest did not file a return or reported income that is insufficient to cover their mortgage interest and their basic living expenses and could have owed \$1.4 billion.

CHECK

Look back at newsletter issues, articles I've written, and general advice at my website"

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IT OUT

income, an enforcement campaign that could sweep up tens of thousand of taxpayers. The push to recover the billions of dollars lost each year to offshore tax evasion goes beyond the government's high profile effort to force Swiss bank UBS AG to give up the names of 52,000 American account holders in order to nab tax evaders. The IRS is using the once obscure F-BAR to force taxpayers to provide information on income they earn on bank accounts they hold offshore and is threatening tough against taxpayers who do not file and has greatly broadened those subjects to filings beyond direct owners of offshore accounts. The reporting requirements apply to U.S. citizens and residents who have offshore accounts totaling \$10,000 at any time during the year. This spring the IRS announced a voluntary disclosure programs for taxpayers who have not been reporting the existence of their offshore accounts. The agency is warning those who do not come in by September 23rd will be hit with far larger penalties. Recently, the IRS has been asking for face-to-face interviews with many who have come forward. For those who inadvertently failed to report offshore income, they can be subject to a \$10,000 a year penalty. For those the IRS considers to be intentional evaders, the penalty can be the greater of \$100,000 or 50% of the account for each year.

AH, TO BE A CONGRESSMAN!

Ever notice that seldom are those persons endorsing high taxes actually the people paying them? Consider, for example, Charles Rangel, Chairman of the Ways and Means Committee, who is suggesting a new 5.4% income tax surcharge. Mr. Rangel, in addition to his salary as congressman, owns a rental property, purchased in 1987, at the Punta Cana Yacht Club in the Dominican Republic. His rental income ought to be substantial since it is a luxury beachfront villa and is more often than not rented out. But when the National Legal and Policy Center looked at Mr. Rangel's financial disclosure to the House of Representatives it noted that his reported income looked on the light side. In 2004 and 2005 he reported no more than \$5,000 and in 2006 and 2007 no income at all from the property. The villa is among the most desirable at Punta Cana, renting for \$500 a night in the low season and as much as \$1100 a night in the peak season. Last year it was fully booked between December 15th and April 15th. Mr. Rangel has admitted to having failed to report rental income of \$75,000 over the years, blaming first his wife because she was supposed to be managing the property, then the language barrier. "Every time I thought I was getting somewhere, they'd start speaking Spanish on me," Rangel explained. He also said that: "I never had any idea that I got any income from the villa." (I'll try that one myself next time I talk to the IRS.) He promised last fall to amend his tax return, pay the taxes due, and correct the information on his annual financial disclosure form. The deadline was May 15th, and as of July 31st he still had not done so. Equally interesting is his claim that he did not know that the developer had converted his \$52,000 mortgage to an interest-free loan in 1990, which appears to violate House rules on gifts. Besides failing to pay those pesky taxes, Congressman

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CALIFORNIA FTB IS OUT THERE AND LOOKING

The California Franchise Tax Board has begun contacting more than 35,000 companies that did business in California in 2007, but failed to file a California corporation franchise or income tax return for that year. Businesses contacted by the FTB will have 30 days to file their delinquent tax return or show why one is not due. If no such action is taken, the FTB will issue a tax assessment that may include penalties and fees. The FTB annually reviews more than 5 million income records from government agencies and financial institutions, and matches them against tax records filed to determine whether some businesses have yet to file.

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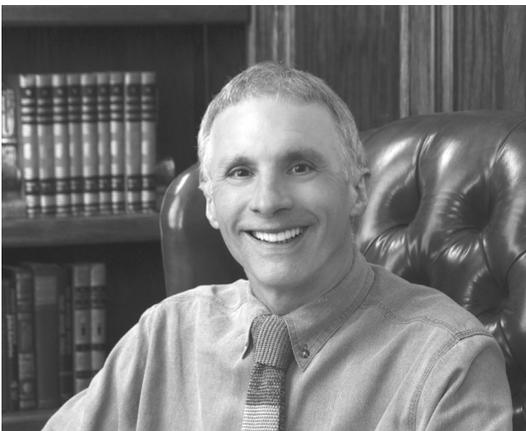
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The Tax Advocate



Rangel is a tenant of four rent-stabilized apartments in Harlem, for which he had to keep his income below \$175,000, lest he be ineligible as a hardship case for rent control. (One of the apartments he used as an office in violation of the rent-control rules.) Congressman Rangel also owned a home in Washington D.C. from 1971 to 2000, during which time he claimed a homestead exemption that reduced his District of Columbia property taxes. The homestead exemption, however, only applies to a principal residence, and the Washington residence would not have qualified as such since the Congressman's rent-stabilized apartments had the same requirement.

ARE YOU FRIENDING THE IRS?

Those dealing with back taxes are discovering someone actually reads their MySpace and Facebook postings. State tax collectors are mining information posted on social networking Web sites from relocation announcements to professional profiles to financial boasts. In Minnesota, tax collectors levied wages for a long-sought tax evader after he announced on MySpace that he was returning to his home town to work as a real-estate broker and gave his employer's name. Agents in Nebraska collected \$2,000 from a deejay after he advertised on his MySpace page that he would be working at a big public party. In California, the Franchise Tax Board identified a tax delinquent as a rigger of sails through a discussion board. The FTB agent asked where the rigger was because his store was closed and were told that he had moved across the bay. The IRS will not say whether it searches social networking sites. Searches for those owing back taxes usually begins with examination of bank, employment, tax, and motor vehicle records. Now they are going online. A Nebraska tax collector snagged \$30,000 of unpaid taxes after Googling him to find that he was a high-ranking local rep for a national firm.

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