IRS TO FOCUS ON LAWYERS & ACCOUNTANTS

The IRS has announced that it is going to focus on misconduct by lawyers and accountants who represent wealthy individuals and corporations. The move is intended to shut down the lucrative trade in opinion letters, which taxpayers buy in the expectation they can get penalties waived if their strategy is disallowed. The IRS wants to weed out attorneys and accountants who sacrifice their independence and integrity to earn higher fees. Opinion letters, typically scores of pages long and freighted with caveats, sell for as much as $1 million each. Such letters typically assert that a particular tax strategy is more likely than not to survive an IRS audit, but is often based upon unreasonable economic and legal assumptions that do not necessarily match the specific circumstances of the taxpayer who buys the letter. Under the regulations, these opinion letters are worthless for deals made since January 1, 2003, as a defense against penalties, which can run as high as 75% of the taxes not paid. Another move requires that legal and accounting firms police their partners through high-level oversight committees.

fraudulently claiming charitable contributions of 50% or more of their adjusted gross income.
The Truth: Taking a purported vow of poverty or claiming fraudulent contributions to filter income through a church is not legal. Many fraudulent religious organizations use funds for personal expenses.
Internal Revenue Code Arguments -
(1) There is no Internal Revenue Code that imposes taxes;
(2) only "individuals" are required to pay taxes; or
(3) IRS can only assess taxes against people who file returns; income taxes are voluntary
The Truth: The tax law is found in Title 26 of the United States Code. The requirement to file an income tax return is not voluntary and it is clearly set forth in the Internal Revenue Code (IRC) Sections 6011(a), 6012(a), et seq., and 6072(a). IRS was established July 1, 1862 by an act of Congress. Our system of taxation allows taxpayers to determine the correct amount of tax and complete the appropriate forms "voluntarily" rather than have the government do it for them. However, any taxpayer whose income falls below the statutory amount, does not have to file a return.
Forming a Trust Argument - Forming a business trust to hold your income and assets will avoid taxes. A family estate trust will allow you to reduce or eliminate your tax liability.
The Truth: Although there are legitimate trusts and legitimate reasons why individuals establish trusts, establishing a trust, foreign or domestic, for the sole purpose of hiding your income and assets from taxation is illegal and will not absolve you of your tax liability. The underlying claims for many "untaxing" trust packages rely on other frivolous arguments--arguments that have subjected promoters, as well as willing participants, to criminal penalties. Some American citizens use these and other clever arguments advocating non-compliance with the tax laws. Don't be misled. Inspect their promotional material carefully. Aside from being false and misleading, you will notice that it often contains elaborate disclaimers such as "this report is offered as vehicle for discussion and debate and for general informational purposes only. It does not constitute legal or professional advice and should not be relied on as a substitute for proper research and inquiries into original sources of authority." You will also find that many of these "tax experts" don't even follow their own advice but choose to file and pay their own taxes. The IRS will: (1) Assist taxpayers who have been misled to correct their returns, and (2) Vigorously pursue prosecution and prison sentences for individuals who violate the tax laws."

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IRS Tax Advocate

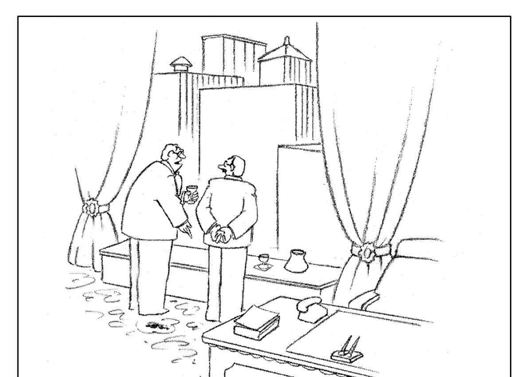
A Legal Newsletter

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

Volume VI, Issue 19
Friday, 9:47 AM

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

Inside This Issue...


"I would never cheat on my taxes That's what I have a CPA for."

SON OF BOSS

The Senate Finance Committee extended the August 15th statute of limitations for Son of Boss anti-tax shelter legislation in order to rein in investors who did not participate in the IRS's voluntary settlement program. The Committee believes that the IRS gave Son of Boss participants an adequate chance to come forward, but a large number of them did not. The intent of the Committee is to give the IRS adequate time to purse those who rejected the terms of the voluntary settlement program. In 1999, the Treasury Department described a transaction that was being marketed to taxpayers for purposes of generating artificial tax losses knows as the bond option sales strategy or Boss. Tax shelter promoters modified the Boss structure to fall outside the variations described by Treasury and marketed the revision as Son of Boss, which generated artificial tax losses designed to offset income from other transactions through a series of contrived steps involving interests in a partnership. In 2000, the Treasury issued a notice denying the purported losses resulting from Son of Boss transactions and warned promoters and participants who willfully concealed their participation on tax returns that they could be subject to criminal penalties.

CALIFORNIA TAX AMNESTY

The California Assembly has passed legislation authorizing the Franchise Tax Board and the State Board of Equalization to administer a Tax Amnesty Program in early 2005. Tax amnesty is a limited-time chance for individuals and businesses to pay past due income, franchise, sales, or use taxes, and the related interest, penalty free and without fear of criminal prosecution, for tax years before 2003. The program runs from February 1, 2005 through March 31, 2005. Taxpayers eligible to participate in amnesty, but chose not to do so will be subject to additional penalties. In addition to filing past due returns or amending incorrect returns, participating taxpayers must full pay all liabilities and interest before May 31, 2005, or set up an installment agreement that will be fully paid by June 30, 2006. The amnesty application will be available from the FTB and SBE websites by January 15, 2005. Taxpayers who fail to participate in the amnesty program will face an accuracy related penalty that increases from 20% to 40%, and an amnesty penalty will be imposed at the rate of 50% of the existing unpaid interest.

LONGEST PRISON TERM FOR TAX OFFENSES IN ALASKA

In the District of Alaska, Richard Ray Blankenship received the longest sentence ever imposed in Alaska for tax-related crimes. Blankenship was sentenced to eight years and eight months in prison. Blankenship renounced his US citizenship and social security number and claimed he had no obligation to the Internal Revenue Service. Blankenship has not filed a legitimate tax return since 1994. The indictment charged him with willful failure to file returns for 1996, 1997, 1998, 1999 and 2000. The indictment also charged Blankenship with several counts of mailing threatening communications and passing fictitious obligations. On September 12, 2002, a federal trial jury in Anchorage convicted him of failing to file federal income tax returns, mailing threats to judges and attempting to pay a hospital bill with a fraudulent Unites States Treasury sight draft. In imposing sentence, Chief United States District Court Judge John Sedwick commented that Blankenship's conduct was among the most selfish he had ever encountered. He likened Blankenship to a recruit who was always out of step with the rest of his company and reminded him of his obligations to pay taxes and obey the law.

IRS WORKER FIRED AFTER THREATENING EX-HUSBAND WITH AUDIT

Mary Rose Tablerion was an IRS Revenue Agent in Tempe, Arizona. Divorced, Ms. Tablerion and her ex-husband each were entitled to claim a tax exemption for one of their children. In a dispute over which parent would claim child-care expenses on their tax returns, Ms. Tablerion called her ex-husband and left a message. “If you don’t . . . I will write the IRS and inform them to audit your returns.” The IRS fired Ms. Tablerion, citing the 1998 Restructuring Act, where workers can lose their jobs for misconduct. Lesson: Ms. Tablerion should have had her lawyer write a letter to her ex-husband threatening IRS contact.

NONFILERS DRAGNET NABS BIG FISH

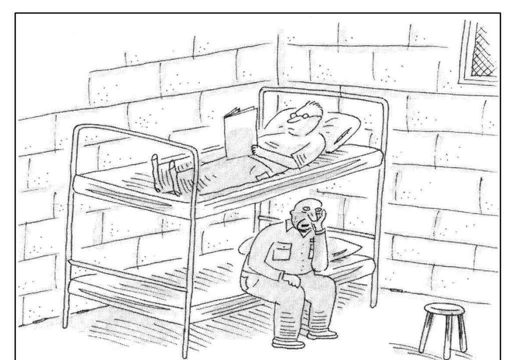
Federal and California state tax collectors are turning up the heat on people who have failed to file tax returns, and their efforts are turning up some surprisingly big fish. The California Franchise Tax Board says that the state’s latest list of suspected nonfilers for 2002 includes 865 millionaires, 6,756 lawyers, 1,458 certified public accountants, 22,769 contractors, and 20,473 doctors, dentists, and other medical professionals. Steve Westly, the controller and chairman of the FTB, says that taxpayers who still have not filed have some explaining to do. Both the IRS and the FTB say that they are using increasingly sophisticated document matching programs to uncover nonfilers who received income reported separately to tax collectors by employers and financial institutions. California sent notices to more than 700,000 individuals asking that they file their 2002 returns, and has provided its list of nonfilers to the IRS.

OBSTRUCTIVE BEHAVIOR STIFFENS SENTENCE

From the official court transcript of the Sentencing Proceedings for Katina Kefalos before the Honorable Algenon L. Marbley, United States District Judge on Friday, March 8, 2002, comes this lesson at what not to say at your sentencing hearing for tax evasion:
Court: Ms. Kefalos, please come forward to be sentenced. Please bring Ms. Kefalos forward.
Defendant: Are you ordering the strawman or the natural woman Katina Kefalos to cross the bar?
Court: Ms. Kefalos, please come forward to be sentenced.
Defendant: Are you ordering me to cross the bar?
Court: Please come forward to be sentenced, Ms. Kefalos.
Defendant: Is that an order for the natural woman to cross the barr?
Court: That is an order for Katina Kefalos, the defendant, to come forward. Whether you are the strawperson, the natural woman, strawman, whomever, you are ordered to come forward. If you don't come forward, Ms. Kefalos, I will have the marshals bring you. It's your option.
In what the Court called an "abundance of caution" and after many

IRS URGES CAUTION IN SELECTING TAX RETURN PREPARERS

Although noting that most return preparers provide excellent services to their clients, the IRS is urging taxpayers to use caution when selecting a tax preparer because they are ultimately responsible for the information set forth on their returns. Return preparer fraud generally involves the preparation and filing of false income tax returns by preparers who claim inflated personal or business expenses, false deductions, unallowable credits, or excessive exemptions on returns prepared for their clients. Abusive preparers may also manipulate income figures to obtain fraudulent tax credits. When choosing a return preparer: 1) Avoid preparers who claim they can obtain larger refunds than other preparers. 2) Avoid preparers whose fees are calculated as a percentage of their clients’ refunds. 3) Hire reputable tax professionals who sign their clients’ returns and provide them with copies for their records. 4) Review returns before signing and ask necessary questions. 5) Never sign a blank tax form. Please telephone me if you are in need of a referral to a tax preparer.



”One thing I regret... is using my one phone call to order pizza”

examples of Ms. Kefalos' obstruction was laid before the Court, Judge Marbley continued the March 8, 2002, sentencing hearing until March 22, 2002. On that date, Ms. Kefalos was sentenced to 27 months in prison for evading payment of $12,990.67. Ms. Kefalos did not file an income tax return for tax year 1996 after receiving commissions totaling $52,000 for her sales of real estate. She structured the manner in which she received the commissions in an effort to conceal the existence of these funds from the IRS. The sentence was more severe than customary because of what the judge called her "obstructive behavior". This behavior included filing liens against the Clerk of the Court, one of her attorneys, and against the law firm in which he was a partner. Ms. Kefalos either directly or constructively, because of her refusal to cooperate, dismissed several Court appointed attorneys. And continued to engage in, what the court termed, "a pattern and practice of filing spurious papers".

BEWARE OF EMPLOYMENT TAX SCHEMES

Arguments concerning the legality of the tax system are being used in an attempt to convince employers they do not have to withhold employment taxes. Employment tax schemes have serious consequences not only for the employers but the employees as well. Employers are subject to both criminal and civil sanctions but employees also suffer because as a result of their employer’s actions they may not qualify for social security, Medicare, or unemployment benefits (or they may qualify for reduced benefits only). These programs provide important benefits to many citizens and will continue to grow as more citizens reach retirement age. The health of these programs depends on everyone paying their fair share.

Some Arguments

Complicated arguments against the American tax system are built by stringing together unrelated ideas plucked from widely conflicting court rulings, dictionary definitions, government regulations and other sources. Some of the most popular anti-taxation arguments include the following:
Constitutional Argument - Filing an IRS Form 1040 violates the Fifth Amendment right against self-incrimination or the Fourth Amendment right to privacy.
The Truth: The courts have consistently held that disclosure of the type of routine financial information required on a tax return does not incriminate an individual or violate the right to privacy.
Compensation Argument - Wages, tips and other compensation received for personal services are not income because there is allegedly no taxable gain when a person "exchanges" labor for money.
The Truth: The Internal Revenue Code defines gross income as income from whatever source derived and includes compensation for services.
Sixteenth Amendment Argument - The Constitutional Amendment establishing the basis for income tax was never properly ratified.
The Truth: The 16th Amendment was properly ratified in 1913, and it states "The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."
Religious Arguments - Individuals invoke the Freedom of Religion clause of the First Amendment by taking a vow of poverty or by