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!

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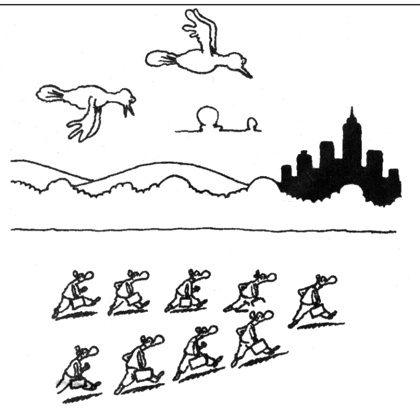

"Oh, look! The accountants are migrating back to the city for tax season'"

IRS CONSIDERS NEW OFFSHORE DISCLOSURE PROGRAM

The IRS says it is "seriously considering" a new offshore disclosure program, but taxpayers will not be getting the same sweet deal as those who came in under the original program as the penalties will increase. Approximately 15,000 taxpayers made voluntary disclosures under the program that ended on October 15, 2009, and another 3,000 have come to the IRS since. While collecting revenue, the 18,000 who came in have given the IRS a wealth of information on their enablers, those planners and advisers who directed them in opening offshore accounts to begin with. IRS continues to gather account information from Swiss bank UBS and is developing new leads involving numerous banks, advisors, and promoters around the world including Asia and the Middle East. IRS is also working to develop joint audits with other countries to boost compliance.

AUDITS FROM HELL AIMED AT THE RICH

Well-heeled investors beware: The IRS is coming. A unit set up to look at wealthy taxpayers and their complicated financial arrangements has begun rigorous probes of hedge-fund managers and other investors it suspects may be evading taxes. The reviews performed so far have been particularly harsh. Investors are being ordered to hand over numerous hard-to-get documents in short order. The IRS unit, known as the Global High Wealth Industry Group, was set up in 2009 and began conducting audits in 2010. Donna Hansberry, a longtime litigator for the IRS, heads the unit. Rarely in the past has the IRS conducted audits of the wealthy and their businesses or investments in the same manner as it looks at large companies. Now though, agents who have worked on coordinated corporate audits will conduct the audits of the wealthy. Given their experience and sophistication, the IRS believes it agents will be better at unearthing trouble. The audits are so extensive that each team is handling only a few right now. The teams are investigating individuals who have a complex set of situations and are looking at the complete financial set up. The IRS is focusing on many kinds of financial instruments and asset classes, from derivatives to real estate – such as a stake in a European winery – as well as trusts, royalty and licensing agreements, revenue-based or equity-sharing arrangements, private foundations, privately held

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9 TIPS TO TAXPAYERS WHO OWE MONEY TO IRS

1. If you get a bill for late taxes, IRS expects you to promptly pay the tax owed including penalties and interest. (They, on the other hand, can take their own sweet time in sending you your refund). If you are unable to pay the amount due, it is almost always in your best interest to get a loan to pay the bill in full rather than to make installment payments to the IRS.
2. You can also pay the bill by credit card. The interest rate may be lower than the combination of interest and penalties imposed by the IRS.
3. You can also pay the balance owed by electronic funds transfer, check, money order, cashier's check, or cash.
4. You may request an installment agreement if you cannot pay the liability in full.
5. If you owe $25,000 or less, you can request an installment agreement using the Online Payment Agreement application at IRS.gov.
6. You can also complete and mail IRS Form 9465, Installment Agreement Request, along with your bill in an envelope that you have received from the IRS. The IRS is *supposed* to inform you within 30 days whether your request is approved, denied, or additional information required.
7. You may still qualify for an installment agreement if you owe more than $25,000, but you must complete and submit a Form 433-F, Collection Information Statement.
8. You will be charged a one-time user fee of $105 if your agreement is approved.
9. Consider changing your withholding on your W-4 so you stop underwithholding.

"This should be simple. Your wife called to tell me what's wrong with you."

companies, and partnerships. The wealthy often make sophisticated business and investment arrangements with complicated legal structures and tax consequences. These can involve other family members or business associates and can be difficult to map. Some are simple mechanisms to avoid taxes while others legitimately protect assets, promote charitable causes, or defer income. One problem is that individuals, unlike corporations, don't have a tax department or financial officer to respond to IRS requests for original and amended tax returns, sources of income, properties owned directly or leased, names of each current or former officer, trustee, and manager of financial entities, and for minutes, resolutions, and records involving entities and individuals.

IRS TARGETS INCOMPETENT TAX PREPARERS

The good news is that the IRS out to ensure that taxpayers receive quality help when they hire someone. The bad new is that the IRS may be going too far too fast with more regulation than necessary. The agencies goals could be achieved more cheaply and efficiently without stretching its enforcement resources so thin. The IRS is now requiring all paid tax-return preparers to register for a "preparer tax identification number" (PTIN) to enable them to track their work so they can find them when problems are uncovered. Tax attorneys, CPAs, and enrolled agents are already subject to extensive oversight and testing, but a vast army of others operate with little federal or state supervision and may have no formal training. The registration program brings unregulated preparers within reach of the IRS, enabling it to identify those with a pattern of shoddy work. The effort, though, is flawed by going beyond the signing preparer to every person who touches the return. The IRS is also planning new competency tests for all newly registered preparers. The tests would even cover CPA firm employees who are closely supervised by CPAs heavily regulated by the states.

IRS DROPS JOHN DOE SUMMONS AGAINST UBS

The IRS has withdrawn its John Doe summons against banking giant UBS, ending its long-running dispute over allegations of account holders using the bank to shield assets from U.S. taxation because it will be receiving information on more than 7,500 UBS account holders. Thousands more individuals have stepped forward and voluntarily disclosed unreported accounts at other foreign banks.

IRS AUDITS OF WEALTHY UP 29%

The IRS Oversight Board says that audits of individuals with incomes in excess of $1 million grew by 29% for fiscal year 2009, with the total number of audits at 28,349. There was, however, only a small increase in overall audits. The Board acknowledged

EMPLOYEE VS. INDEPENDENT CONTRACTOR

Be forewarned! IRS is on the lookout for employers who hire workers as independent contractors rather than employees. Seven points the IRS looks at:

1. The IRS uses 3 characteristics to determine the relationship between the business and workers: *Business Control* covers the facts showing whether the business has a right to direct or control how the work is done through instructions, training or other means. *Financial Control* covers the facts that show whether the business has a right to direct or control the financial and business aspects of the worker's job. *Type of Relationship* factor relates to how the workers and the business owner perceive their relationship.
2. Workers are likely employees if the business owner has the right to control or direct not only what is to be done, but also how it is to be done.
3. Workers are likely independent contractors if the business owner can direct or control only the result of the work done and not the means and methods of accomplishing the result.
4. Employers who misclassify workers as independent contractors can end up with substantial tax bills in addition to penalties for failing to pay employment taxes and for failing to file required tax returns.
5. Workers can avoid higher tax bills and lost benefits if they know their proper status.
6. Both employers and workers can ask the IRS to make a determination on whether a specific individual is an independent contractor or an employee by filing with the IRS a Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding.

that it is difficult to measure the IRS's progress in reducing the tax gap (the difference between what taxpayers owe and what they pay). Nonetheless, the Board believes the IRS is making progress, touting the IRS's new return preparer oversight initiative and its offshore voluntary compliance initiative. The Board criticized the IRS's customer service, which for the last two years has been characterized by growing demands but only constant resources.

EIGHT THINGS TO KNOW IF YOU RECEIVE AN IRS NOTICE

Each year the IRS mails millions of letters and notices to taxpayers, but that doesn't mean that you need to worry. Here are eight things every taxpayer should know should a notice show up in your mailbox:

1. Don't panic. Almost all of these notices can be dealt with simply and painlessly.
2. The IRS mails notices for any number of reasons. The notice may request payment of taxes, notify you of a change to your account, or request additional information. The notice you receive normally covers a very specific issue about your account or tax return.
3. Each letter and notice offers specific instructions on what you need to do to satisfy the inquiry.
4. If you receive a correction notice, you should review the correspondence and compare it with the information on your return.
5. If you agree with the correction to your account, usually no reply is necessary unless a payment is due.
6. If you do not agree with the correction the IRS made, it is important that you respond as requested. Write to explain why you disagree and always, always, always correspond by certified mail. Mail the information to the IRS address shown in the upper left-hand corner of the notice. Allow at least 30 days for the response.
7. Most correspondence can be handled without calling or visiting an IRS office. If, however, you have questions, call the telephone number in the upper right-hand corner of the notice. Have a copy of your tax return and the correspondence available when you call.
8. Keep copies of any correspondence with your records.

IRS AND OFFSHORE ACCOUNTS

The Swiss Parliament in an historic move has overturned the country's long tradition of bank secrecy, paving the way for the Swiss government to release to the IRS the names of 4500 UBS customers suspected of evading U.S. taxes. The decision ends years of wrangling over the UBS accounts, which held some $20 billion in 2004. The change could augur for future U.S. crackdowns on offshore accounts. The 4500, though, are a minority of total UBS account holders: A 2004 UBS document pegged such "account relationships" at 52,000. The IRS in the future will have more power to ask other Swiss banks to identify possible tax evaders and

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ORANGE COUNTY MAN ACCUSED OF $20 BILLION TAX FRAUD

Thanh Viet Jeremy Cao, who already was accused of filing false tax returns claiming $20 billion in refunds, retaliated against those judges, tax and financial authorities, Secret Service agents, and federal prosecutors involved in his prosecution by taking out a total of 22 false liens, ranging from $25 million to $300 million. Cao, whose business was Phoenix Financial Management in Lake Forest, filed fraudulent forms with the IRS on behalf of six clients that "grossly overstated his customers' income and withholding to get grossly inflated tax refund checks." Cao, if convicted, faces up to 223 years in prison and a $5.75 million fine.

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The Tax Advocate

to gather information more easily about specific individuals. Officials in the past had to give the Swiss both a name and evidence of misdeeds. Now they merely need give a name. The most important criteria for disclosure is direct ownership of an account of 1 million or more Swiss francs between 2001 and 2008, or an account with 250,000 Swiss francs during the same period if there was an effort to conceal ownership – especially using credit cards or cell phones, or an account generating 100,000 Swiss francs in interest, dividends, or capital gains for any three years between 1998 and 2008. The IRS is not pursuing only US taxpayers with Swiss accounts, but through its "Global High-Wealth Initiative", IRS has new offices or beefed up staff in 15 cities abroad including Hong Kong, Beijing, and Panama City. Taxpayers may still come forward before being contacted by the IRS and most likely avoid criminal prosecution.

IRS MOPPING UP CONGRESS' MESS

With a new mandate looming that will require business owners to file millions more tax forms, IRS has begun the daunting process of determining the statute's sweeping demands into actual rules. Any taxpayer, beginning in 2012, with business income must issue form 1099 to all vendors from whom they purchased $600 of goods and services that year. An estimated 40 million taxpayers will be subject to the requirement. The new rules are aimed at reducing the tax gap between what individuals owe and what they actually pay. IRS estimates the federal government misses out on an estimated $300 billion each year. The Taxpayer Advocate's Office, though, questions whether the new rules will do much to close the tax gap. Even the Joint Committee on Taxation estimates that the legislation will bring in only $2 billion a year.

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Return Service Requested