Scott Kauffman's...

IRS Tax Advocate

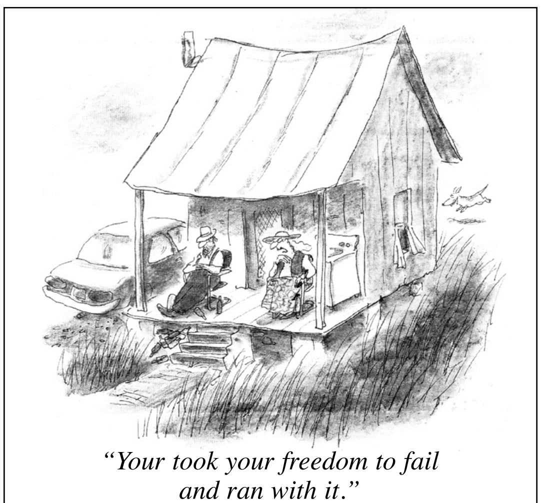
A Legal Newsletter

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

Volume VI, Issue 28
Friday, 9:47 AM

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

Inside This Issue...



"Your took your freedom to fail and ran with it."

OFFSHORE DISCLOSURE REOPENED !!!

The Internal Revenue Service has reopened the offshore voluntary disclosure program to help people with offshore accounts get current with their taxes. The IRS said it reopened the Offshore Voluntary Disclosure Program (OVDP) following continued strong interest from taxpayers and tax practitioners after the closure of the 2011 and 2009 programs. The third offshore program comes as the IRS continues working on a wide range of international tax issues and follows ongoing efforts with the Justice Department to pursue criminal prosecution of international tax evasion. This program will be open for an indefinite period until otherwise announced. The program has no set deadline to apply. However, the terms of the program could change at any time going forward. The third offshore effort comes as IRS also announced the it has collected $3.4 billion so far from people who participated in the 2009 offshore program and an additional $1 billion from up front payments required under the 2011 program. That number will grow as the IRS processes the 2011 cases. In all, the IRS has seen 33,000 voluntary disclosures from the 2009 and 2011 offshore initiatives. The overall penalty structure for the new program is the same for 2011, except for taxpayers in the highest penalty category. For the new program, the penalty framework requires individuals to pay a penalty of 27.5 % of the highest aggregate balance in foreign bank accounts/entities or value of foreign assets during the eight full tax years prior to the disclosure. That is up from 25 percent in the 2011 program. Some taxpayers will be eligible for 5 or 12.5 percent penalties; these remain the same in the new program as in 2011.

INJURED SPOUSE RELIEF

If you file a joint return and all or part of your refund is applied against your spouse's past-due federal taxes, state income tax, child or spousal support, or federal nontax debt, such as a student loan, you may be entitled to injured spouse relief. (1) To be considered an injured spouse, you must have made and reported tax payments and not be legally obligated to pay the past-due amount. (2) Special rules apply in community property states. (3) If you filed a joint return and you are not responsible for the debt, but you are entitled to a portion of the refund, you may request your portion by filing Form 8379. (4) You may file Form 8379 along with your original tax return or you may file it by itself after you are notified of the offset. (5) Do not file Form 8379 if you are claiming innocent spouse relief.

IRS ANNOUNCES WORKER CLASSIFICATION SETTLEMENT PROGRAM

IRS has announced the launch of a new Voluntary Classification Settlement Program (VCSP) that will enable many employers to resolve past worker classification issues and achieve certainty under the tax law at a low cost by voluntarily reclassifying their workers. Under the VCSP, which is part of the IRS's "Fresh Start" initiative, employers can become compliant by making a minimal payment covering past payroll tax obligations rather than waiting for an IRS audit. To be eligible for the VCSP an employer must: (1) Consistently have treated the workers in the past as nonemployees; (2) have filed all required Forms 1099 for the workers for the previous three years; and (3) no currently be under audit by the IRS, the Department of Labor, or a state agency concerning the classification of these workers. Interested employers can apply for the program by filing Form 8952 at least 60 days before they want to begin treating the workers as employees. Employers accepted into the program will pay an amount effectively equaling just over 1% of the wages paid to the reclassified workers for the past year. No interest or penalties will be due, and the employers will not be audited on payroll taxes related to these workers for prior years. Participating employers will for the first three years under the program be subject to a special six-year statute of limitation rather than the usual three years that generally applied to payroll taxes.

CHECK

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

www.besttaxadvocate.com

IT OUT

TAX FRAUD UP IN 2010

It's a simple equation: when the economy is down, taxpayer fraud goes up. Not only do taxpayers feel the effects of taxes more, the extra dollars can really matter to individuals in tight financial situations. By March of 2011, the IRS had already found errors on 335,341 tax returns for 2010, according to an audit by the Treasury Inspector General for Tax Administration. In addition to the added incentive for taxpayers to get the biggest return they can, statistics provided by the IRS also show increased audits of taxpayers of all stripes — from millionaires (audits up 73 percent) to prison inmates (audits up 88 percent). The Earned Income Tax Credit (EIC) is perhaps the most fraudulently claimed tax credit. It is intended to give credits to working people with low income and families. Unlike many other credits and deductions, the EIC is refundable. This means that no matter how little you owe in taxes, you can receive money back. Extremely low income qualifiers can actually have the IRS pay them money for the tax year. The IRS estimates that the EIC is claimed wrongly about 25 percent of the time, with a payout of $11 to $13 billion every year. Most of the fraud comes from taxpayers claiming children without providing a valid Social Security number on their returns. Another recently refundable credit is the adoption credit, which gives up to $13,170 for a qualifying child. Again, some taxpayers are claiming to have falsely qualified for this credit. Other common tax fraud schemes include: Exaggerating charitable donations, which the taxpayer then deducts. Hiding money in offshore accounts to avoid showing income. Hiding a company, or failing to report all self-employed income. Using alternative forms instead of a W-2 (such as a Form 4852 or Form 1099) to hide wage income. The IRS charges penalties and interest if it determines that there is tax fraud and the taxpayer owes money. Even if you are the victim of a tax fraud scam from a preparer, you are responsible for the taxes owed. Speak with an experienced tax attorney who can help you fight IRS claims of tax fraud and tax evasion.

IRS UPDATES IT'S DIRTY DOZEN

The IRS has issued its annual update to its "Dirty Dozen" tax scams, schemes that look tempting but are fraudulent and end up hurting those who participate in them. The IRS works with the Justice Department to shut down their perpetrators, and their promoters end up facing heavy fines and imprisonment. Meanwhile, taxpayers who become involved with these schemes must repay all taxes plus interest plus penalties. ***Hiding Income Offshore:*** The IRS aggressively pursues taxpayers who hide income in offshore banks, brokerage accounts, debit and credit cards, wire transfers, foreign trusts, employee-leasing schemes, and private annuities or insurance plans. ***Identity Theft and Phishing***: Identity theft occurs when someone uses an unsuspecting individual's name, Social Security number, credit card number or other personal information without permission to commit fraud. Phishing is a scam-artist tactic involving the use of phony e-mail or websites to trick unsuspecting victims into revealing personal or financial informa-

IRS DEMANDING MORE DATA

The IRS, moving aggressively to collect more taxes from small businesses, is telling companies under audit to turn over exact copies of electronic records in their business-software programs, which is forcing them to turn over customer lists, personnel data, confidential client information, and other unrelated information they often keep in off-the-shelf software programs that companies use to manage their finances. Companies, with just cause, are concerned that turning over so much information will lead to IRS fishing expeditions. IRS defends its actions, saying its request for complete software files is part of an effort to modernize because unaltered metadata is necessary to it can consider the integrity an veracity of the electronic files. The IRS has been ramping up its tax-collection efforts in recent years, increasing the number of audits on companies and individuals and clamping down on overseas tax evasion. Small businesses are among the largest contributors to the "tax gap," or the amount of taxes owed but not paid because on noncompliance with tax laws. In 2001, the last time it measured the shortfall, non-farm sole proprietor income was estimated to account for 20% of the $345 billion gap. The problem with the new IRS software requests is that unrelated data is often fully integrated with the tax preparation information.

"Your mother and I want you to know that our divorce has nothing to do with you. It has to do with Charlene, your babysitter."

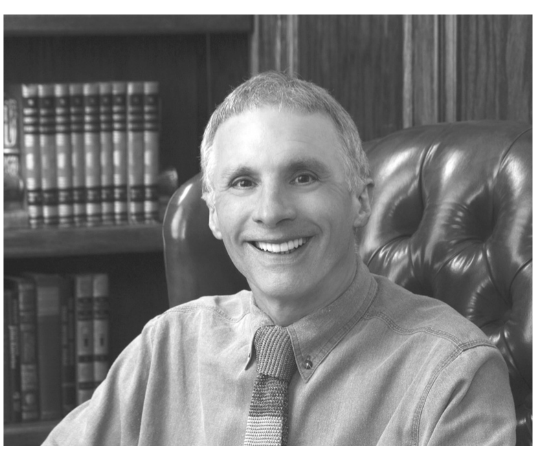
tion online, such as posing as the IRS. Anyone who believes his personal information has been stolen and used for tax purposes should immediately contact the IRS Identity Protection Specialized Unit at 800-908-4490. ***Return Preparer Fraud:*** Dishonest preparers can cause big trouble for taxpayers who fall victim to their ploys. These fraudsters derive benefit by skimming a portion of their client's refunds, charging inflated fees for return preparation service, and attracting new clients by making fraudulent promises. Federal courts have issued hundreds of injunctions ordering individuals to cease preparing returns, and the Department of Justice has pending complaints against dozens of others. ***Filing False Returns***. IRS personnel are seeing various instances in which scam artists file false returns to which they are not entitled, such as by seeking a refund by fabricating an information return and falsely claiming the corresponding amount as a refund. Because scammers often use information from family or friends in filing false returns, beware of requests for such data. ***Frivolous Arguments***. Promoters of frivolous schemes encourage taxpayers to make unreasonable and outlandish claims to avoid paying the tax they owe. ***Abuse of Charitable Deduction***. Abuse 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. The IRS also continues to investigate schemes involving the donation of non-cash assets including situations where the charity claims for both the receipt and distribution of the same on-cash contribution. Often these donations are highly overvalued. ***Abusive Retirement Plans***. IRS is looking for transactions where taxpayers avoid the contributions to IRAs as well as transactions that are not properly reported as early distributions. You should be wary of advisers who encourage you to shift appreciated assets at less than fair market value into IRAs. ***Disguised Corporate Ownership***. Corporations are sometimes formed for the purpose of disguising the ownership of the business by means such as improperly using a third party to request an employer identification number. Such entities can then be used to facilitate underreporting of income, fictitious deductions, non-filing of tax returns, participating in listed transactions, money laundering, financial crimes, and terrorist financing. ***Zero Wages***. Filing a phony wage or income information return to replace a legitimate return has been used as an illegal method to lower the amount of taxes owed. Typically a Substitute W-2 or 1099 is used as a way to reduce taxable income to zero. ***Misuse of Trusts***. Unscrupulous promoters for years have urged taxpayers to transfer their assets into trusts. While their can be legitimate uses of trusts, the unscrupulous advance them to reduce income subject to tax and deductions for personal expenses. IRS personnel have recently reported an increase in the improper use of private annuity trusts and foreign trusts to shift income and deduct personal expenses. ***Fuel Tax Credit Scams***. The IRS has been receiving claims for fuel tax credits that are excessive. While farmers who use fuel for off-highway business purposes may be eligible for the fuel tax credit, others are claiming the credit for nontaxable uses of fuel when their occupations or income levels make the claim unreasonable.

IRS SCRUTINIZING REAL-ESTATE GIFTS

The IRS has a low profile but sweeping effort under way to use state land-transfer records for evidence of omissions in reporting gifts of real estate to family members. Any one-time gift to one person that exceeds $13,000 requires the giver to file a gift-tax return. In 2009 and 2010, 323 taxpayers had been examined for failing to report possible gifts. Another 217 were being examined and 250 more were being considered for review. So far, 97 had failed to report gifts with 12 cases resulting in taxes because a gift put the donor over the $1 million lifetime gift credit that applied at the time.

Scott Kauffman, PLC
19900 MacArthur Blvd., Ste. 1150
Irvine, CA 92612
Ph: 949-474-1820
Fx: 949-474-1823
scott@besttaxadvocate.com
www.besttaxadvocate.com

The Tax Advocate



WHAT YOU NEED TO KNOW IF YOU'RE GETTING AUDITED

The good news is that the IRS is making the process less time-consuming. The bad news is that the IRS is making the process less time-consuming. Over 80% of the audits are going to be conducted by correspondence exams. Because they are far less time consuming, the IRS can audit more taxpayers, but if a taxpayer isn't careful, the audit can become a nightmare. What do you need to know? **Most Audits are Targeted.** The IRS has largely abandoned the old line-by-line audits and is more likely to focus on a single subject or two that appears to be a hotbed of cheating, such as auto donations. With a targeted audit, you are likely to be asked to provide more information only about a few items on your return. If you have the documents to clearly show your deduction was legitimate, you may be able to handle the audit simply by making a copy of your records and mailing them in. Make sure to answer promptly and send your information by certified mail. **Quicker Challenges.** If the agent who reviews your correspondence does not like what he sees, you could be on your way to Tax Court. With in person audits, there are a variety of appeals before a formal challenge. Options. You can request that a correspondence audit be transferred to a face-to-face auditor. For example, if you are being audited over business expenses, you might need to explain why an unusual expense was reasonable and customary in your line of work, which is easier to do in person than on paper. **Do Your Homework.** The IRS is an open book in that it publishes its procedures, rules and taxpayer rights. **Rein in Emotions; Take Notes.** If you end up in a face-to-face, be calm, polite, respectful and take detailed, copious notes. There are lots of judgment calls in the typical audit, and the auditor's impression of you can help determine whether you receive the benefit of the doubt. If you are aggressive or panicky, the auditor is going to guess you have something to hide. Hire a Professional. The Tax Code is complex and audits are frightening and unfamiliar. Unless your audit is incredibly simple or involves a small amount of money, you would be wise to hire a professional.

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

PRESORTED STD
U.S. POSTAGE
PAID
Santa Ana, CA
Permit No. 4767

Return Service Requested