

**CRIMINAL DEFENSE  
ATTORNEY PLEADS GUILTY  
TO FAILING TO FILE TAX  
RETURN FOR YEAR WITH  
EARNINGS OVER \$4 MILLION**

David E. Kenner, whose law offices are in Encino, California, pleaded guilty on February 25, 2002, in a California courtroom. Kenner admitted he earned \$4,085,539 in gross income in 1994 but failed to file his return for that year. Kenner also failed to file his return even after he was advised he was under criminal investigation. Kenner finally filed his return on December 2, 1997. On April 29, 2002, Kenner was ordered to participate in a 9-month home detention program that includes electronic monitoring and placed on probation for three years. Also, Kenner was ordered to participate in a psychological/psychiatric counseling or treatment program and to pay \$1,500 to the Government for the costs of prosecution.



often easy to spot. Red flags indicating you should keep looking are preparers who claim taxes are somehow unconstitutional or voluntary or that your income really isn't taxable. They'll often quote past IRS Commissioners and employees who say that we have a system based upon voluntary compliance, which doesn't mean paying taxes is voluntary. Another warning sign is a preparer who boasts being able to obtain larger refunds than other preparers. Also stay away from preparers whose fees are based upon a percentage of the amount of your refund. Never trust a preparer who refuses to sign your return or even give you a copy for your records. Do not sign a blank return or one filled out in pencil. Also be leery of preparers who encourage you to claim special credits related to slavery or land stolen from American Indians.

**IRS URGES TAXPAYERS TO CLAIM REFUNDS**

The IRS is reporting that more than \$118 Million in tax refunds and advance child credit payments owed to more than 200,000 taxpayers went undelivered this summer. Families who expected but didn't receive an advance child credit payment this summer had to act by December 5th to claim an undelivered refund this year. If they failed to do, families must wait until they file their 2003 tax returns to claim the credit. The IRS has nearly 116,000 undelivered child credit checks worth more than \$50 Million. The checks were returned most often because the taxpayer moved without notifying the IRS. The IRS issued nearly 24 million advance child credit payments this summer after President Bush enacted a tax cut that increased the credit this year to \$1,000 from \$600. The checks were worth up to \$400 per child. Families who had their first child in 2003 did not get a check and can claim the credit when they file their tax returns next year. More than 92,000 tax refund checks also were returned to the IRS as undeliverable. The average check is worth \$722. Taxpayers can use the IRS website to check the status of their refunds and advance child credit payments and get instructions or claiming an undelivered refund.

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**IRS Tax Advocate**



A Legal Newsletter

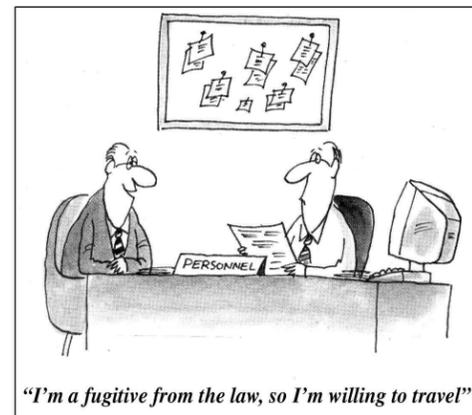
"Read About Taxpayers with IRS Problems & Learn  
Helpful Tips on How To End Them."

Volume VI, Issue 18  
Friday, 9:47 AM

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

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**IRS AUDITING HIGHER INCOME TAXPAYERS**

Taxpayers with incomes over \$100,000 can expect higher audit rates in 2004 and beyond. Commissioner Everson said that the IRS is gearing up its enforcement efforts particularly for higher income individuals and corporations. His comments reveal an agency increasingly concerned about taxpayers opting out of the system and just not filing, let alone paying, their taxes. The IRS is pinning its hopes for more enforcement on the Bush Administrations FY 2005 budget request to Congress. The President is asking Congress for money to hire 5,000 new auditors, collectors, criminal investigators, and other staff. This would return staffing levels to what they were eight years ago. In 1996 the IRS had 26,000 employees working audits, collections, and investigations. In 2003, that number fell to 19,000 even though the IRS had 20 million more returns to process.

**KINDLER, GENTLER IRS HAS ARRIVED**

The Dow Jones Newswire is reporting today that employees at 26 IRS Taxpayer Assistance Centers incorrectly prepared 83% of the tax returns of Treasury Department auditors playing the role of taxpayers seeking assistance. According to the report by the Inspector General, IRS employees incorrectly prepared 19 of the 23 returns in the test. The report said that if 17 of the 19 incorrectly prepared returns had been filed, the IRS would have incorrectly refunded about \$32,000. (I guess this is why the IRS calls them taxpayer assistance centers.) If the remaining two (there's always a couple of misfits who won't get with the program) incorrectly prepared returns had been filed, the IRS would have inappropriately withheld \$2,400. The report said the IRS managed to get the test tax returns wrong by "modifying" the facts provided by the under-cover auditors (I'm shocked! Shocked!) and not referring to the tax instructions and IRS publications. No word on whether the IRS employees will be subject to the return preparer penalties.

## SAN JOSE DOCTOR SENTENCED TO 8 YEARS

On September 5, 2002 in San Francisco, CA, Dr. Donald Ernest Wishart was sentenced to 8 years in federal prison, and ordered restitution in the amount of \$876,857.34, as well as a three-year period of supervised release and 100 hours of community service. Dr. Wishart was convicted on tax violations, mail fraud, and obstruction of justice. During the trial, the evidence showed that Dr. Wishart traveled to north-central Montana to attend a two-day seminar conducted by the Montana Freeman in December 1995. At the end of the seminar, in exchange for approximately \$100, Dr. Wishart received four fraudulent financial instruments styled "Comptroller Warrants" purportedly totaling over \$7 million. Wishart submitted the Freeman warrants for payment to Bay View Federal Bank and at least two government agencies, including the IRS, knowing they were worthless. The Court further found that, following his submission of the Freeman warrant to the IRS, Dr. Wishart sought to impede IRS agents in their collection efforts by sending the agents lien documents threatening financial harm totaling \$200 million. This activity was the basis for Dr. Wishart's obstruction violation. The tax charges stemmed from Dr. Wishart's failure to file income tax returns for the years 1995 through 1998.

**CHECK**  
Look back at newsletter issues,  
articles I've written, and general  
advice at my website"  
[www.besttaxadvocate.com](http://www.besttaxadvocate.com)  
**IT OUT**

## INDICTMENT SAYS ANTI-TAX AUTHOR INCITED CRIMES

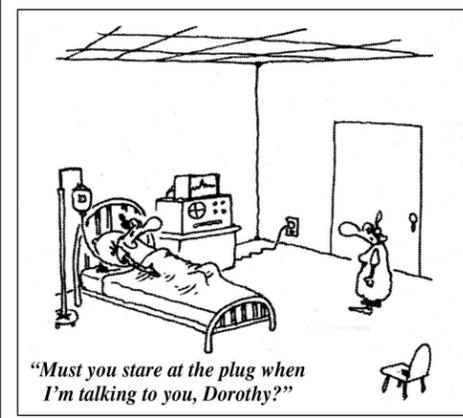
A federal grand jury has indicted anti-tax author Irwin Schiff and two others for helping thousands file bogus returns. Schiff, who wrote *The Federal Mafia: How it Illegally Imposes and Unlawfully Collects Income Taxes*, argues that there is no legal requirement to pay income taxes. Government lawyers have been pursuing him to prevent him from selling his book and holding tax seminars. Prosecutors say the three were responsible for nearly 5,000 tax returns that fraudulently reported no income. These "zero returns" included zeroes on every line related to income and expenses and often claimed a full refund of all federal taxes paid or withheld. After filing the zero returns, many of Schiff's clients faced IRS audits and tax collections. The indictment alleges that Schiff's business, Freedom Books, generated \$3.7 million from 1997 to 2002. Schiff did not report any income on his federal tax returns from 1987 to 2002, hiding money in an offshore bank account. Schiff said at his arraignment that he will enter a plea of guilty if the government can show to him the Internal Revenue Code section that says that persons earning income are liable for income taxes. Schiff faces a maximum sentence of 43 years and \$3.25 million in fines.

## IRS IS BACK IN ENFORCEMENT GAME

American taxpayers are more inclined than ever to cheat on their taxes, but the IRS plans to step up enforcement against high-income taxpayers, corporations, and illegal scams. Last year, 17% of taxpayer said cheating on taxes was acceptable, up from 11% in 1999. The rising acceptance of cheating comes after the IRS cut back on enforcement personnel by 25% in the late 1990s. The decrease sent a bad message just at the time corporate governance was going off the tracks, just when there was a decline in ethics on the part of the accountants and attorneys from many of the white shoe firms, and cultural greed convinced people that they didn't need to pay their fair share. The IRS has now pushed up the audit rate up by 50% so that your risk of audit is a little more than 1%. President Bush has requested a 10% increase in the IRS budget for next year, half of which will be directed toward enforcement. Tax-exempt organizations are another focus of the IRS. There is about a billion dollars of activity every year by tax-exempt credit counseling organizations, but many have just been operating for the benefit of insiders. Right now, the IRS is auditing 9 of the 15 largest credit counselors. Recently, the IRS turned over to the California Franchise Tax Board the names of 3,500 individuals that it believes are engaged in abusive transactions.

## IRS SAYS OFFSHORE COMPLIANCE SHOW STRONG RESULTS

The IRS says that it is seeing a strong response to its Offshore Voluntary Compliance Initiative with more than \$75 Million in taxes collected (at a cost of \$2 Million) and more than 400 offshore promoters identified. The program was designed to bring taxpayers who used offshore payment cards or other offshore financial arrangements to hide income into compliance with U.S. tax laws. Since October 2000 the IRS has also issued a series of John Doe summonses to a variety of financial and commercial businesses to obtain information on U.S. residents who held credit, debit, or other payment cards issued by offshore banks. Investigators have been using records obtained to trace the identities of people whose use of these cards may be related to hiding taxable income. About 2,800 tax returns are now under audit as a result of the summonses and more than \$3 Million in taxes have been assessed. Several dozen cases have been referred to the Criminal Investigative Division for possible prosecution.



## A NEW TAX SCAM

The IRS has issued a consumer alert warning taxpayers about a new tax scam targeting potential recipients of the Advance Child Tax Credit. A taxpayer may receive a telephone call from an individual who promises to speed up the payment of the Advanced Child Tax Credit checks if the taxpayer agrees to a \$39.99 charge to a credit card. The IRS reminds taxpayers that no person or organization can speed up the payment of the tax benefits. Taxpayers need not take any action to receive the new benefit, which features advanced payment of up to \$400 per qualifying child. Under the new scam, the IRS says it is seeing a continuation of a trend that emerged earlier this year when families of those serving in the armed forces were targeted. In both schemes, scam artists use current events to prey on unsuspecting victims. The scams also feature callers seeking credit card information to get taxpayers to pay for special benefits. If the taxpayer agrees to the charge and provides a credit card number or other sensitive personal information, the taxpayer may find a much larger charge to the account.

## WAYS AND MEANS DEBATES IRS PERFORMANCE

In his testimony before the House Ways and Means Committee, Commissioner Everson set out a number of ambitious goals for the IRS: Examine an additional 30,000 investors in the Small Business/Self Employed unit; close 50,000 taxpayer delinquent accounts, bringing in an additional \$215 million; increase collection closures by 240,000; hire and train more than 2,000 new staff in the Examination, Collection, and Document Matching programs; complete 229 significant corporate fraud investigations through 2009 and boost tax-related completed investigations by 20% in 2007; and reduce elapsed time on completed investigations by 30%. IRS Oversight Board Chairperson Nancy Killefer said, however, that the IRS lacks the resources to do its job and is outmanned and outgunned. For example, in 2003 the IRS could pursue only 18% of known shelter cases designed to hide income.

## IS YOUR TAX PREPARER A CROOK?

*(You know who you are.)*

Beware of crooked tax return preparers. While the number of cases prosecuted by the government is small, but the IRS says the dollar amounts are often large. The IRS warns that crooked tax-return preparers are a significant problem and they're taking aggressive steps to control it. Recently a federal court in Santa Ana barred the defendant from preparing returns for seven years. Bad actors are