

Price & Farrington's Estate and Tax Planning Fast Faxes

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Estate, Tax and Wealth Planning for Advisors and Clients

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Top Tax Scams: The Dirty Dozen

The American Bar Association's Tax Discussion Listserv recently posted this from an attorney/CPA:

"As I sit here pulling my hair out to file timely, accurate returns for my clients, I have a radio playing in the background. Imagine my surprise to find out I wasted my education learning the tax law, when, according to a national ad by Irwin Schiff, no one has to pay income taxes, but lawyers and accountants do



Happy St. Patrick's Day!

not know as much as he does. He even has a website: paynoincome.com. Now I can imagine my clients will start to call wondering why I have them paying tax when they hear on the radio and read on the web that they do not have to."

Ever heard an ad like this? Imprisonment, fines, and repayment of taxes owed with interest and penalties await purveyors of fraud and tax evasion schemes. The good news is that they will not be lonely; they may have their clients as cell-mates. Here's the hit list making the top 12 on the tax scam charts:

1. Abusive Offshore Transactions: Individuals using offshore transactions such as offshore credit cards, trusts, or other arrangements to hide or underreport income or to claim false deductions on a federal tax return to avoid paying United States income tax are engaging in illegal transactions.

Civil fraud and information return penalties may be avoided if, between now and April 15, "eligible" taxpayers contact the IRS in a specified manner. (Information on the Offshore Voluntary Compliance Initiative can be obtained by calling 215.516.3537). After that date, such individuals will be subject to payment of taxes, interest, penalties and possible criminal prosecution.

2. Identity Theft: Identity thieves use someone's personal data to steal financial accounts, run up charges on the victim's existing credit cards, apply for new loans, credit cards, services or benefits in the victim's name, and even file fraudulent tax returns.

In two such scams, tax preparers allegedly (1) used information such



"I work religiously, so I thought my income was tax-exempt."

as Social Security numbers and financial information from their clients' tax returns to commit identity theft or (2) sent bank customers fictitious bank correspondence and IRS forms in an attempt to trick them into disclosing their personal and banking data.

3. Phony Tax Payment Checks: Con artists sell fictitious financial instruments that look like checks to pay a tax liability, mortgage, or other debts or they counsel their clients to use a phony check to overpay their taxes so they can receive a refund from the IRS for the overpayment. The false checks, called sight drafts, are worthless and have no financial value. It is illegal to use these sight drafts to pay a tax liability or other debts.

4. Claims That African-Americans Get A Special "Slavery Reparation": The scammer – for a fee – offers to apply on behalf of the taxpayer for tax credits or refunds related to reparations for slavery. But there is no such provision in the tax law and a number of promoters of reparations tax schemes have already been convicted and imprisoned. Taxpayers who file such claims face a \$500 penalty if they do not withdraw

Un Trustworthy...

IRS publication 2193 defines "fraudulent trusts" as designed to hide the true ownership of assets and income or to disguise the substance of financial transactions.

Aside from the proper tax and interest, there is a civil fraud penalty of up to 75% of the underpayment of tax attributable to the fraud in addition to the taxes owed. Criminal sanctions – fines of up to \$250,000 and/or up to five years in prison – can be imposed for each offense. The IRS publication states that "taxpayers are responsible for payment of their taxes regardless of who prepares their returns." You can't hide behind your accountant as a defense from prosecution.

Trusts are legitimate and powerful ways to accomplish both tax and non-tax objectives. But don't be misled; the name "trust" does not make a document legitimate. Nor does it offer any assurance of accomplishing the tax objectives it purports to accomplish. We'll cover examples of trust scams in a future FastFaxes.

-GDP

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the claim.

5. No Taxes Withheld From Wages: Some scammers tell employers they do not have to withhold federal income tax or employment taxes from wages paid to their employees. These schemes are based on an incorrect interpretation of tax law and have been refuted in numerous recent court rulings. Taxpayers who have concerns about their employer and employment taxes can call the IRS at 1.800.829.1040.

6. Improper Home-Based Business: Promoters claim that individual taxpayers can deduct most, or all, of their personal expenses as business expenses by setting up a bogus home-based business. But in reality, this “tax relief” is illegal tax avoidance. A clear business purpose and profit motive must exist in order to generate and properly claim allowable business expenses.

7. Pay The Tax, Then Get The Prize: The caller says you’ve won a prize, and all you have to do to get it is to pay – to THEM – the income tax due. It is true that a prize winner may need to make an estimated tax payment to cover the taxes that will be due on the prize at the end of the year. But the payment goes to the IRS – not the caller. A legitimate prize giver generally sends both the winner and the IRS a Form 1099 showing the total prize value that should be reported on the winner’s tax return.

8. Frivolous Arguments: Frivolous arguments or phony ads such as “I don’t pay taxes — why should you?” or that urge you to “untax yourself for \$49.95,” are false snake-oil con games

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that are unsupported by law. Paying income taxes is not “voluntary.” There is no “secret” “the rich” have for not paying income taxes, and “untax packages” don’t work. Selling such packages or following the advice contained in them often results in civil and/or criminal penalties.

9. Social Security Tax Scheme: This is a scam offering refunds for the Social Security taxes folks have paid during their lifetimes. The scam works by the victim paying a “paperwork” fee of \$100, plus a percentage of any refund received, to file a refund claim with the IRS. This hoax fleeces the victims for the up-front fee. The con artist is long gone by the time the scammed individuals find out they were fleeced. There is no provision in the tax law allowing a refund for Social Security tax.

10. “I Can Get You A Big Refund... For A Fee!”: Refund scheme operators may approach someone wanting to “borrow” their Social Security number or give him or her a phony W-2 so it appears that the person qualifies for a big refund. They promise to split the refund with that person. These false refund claims seldom slip by the IRS and when they occasionally do, the participant usually ends up paying back the refund along with stiff penalties and interest. Two lessons to remember: (1) anyone who promises someone a bigger refund without knowing their tax situation is likely misleading them; and (2) never sign a tax return without looking it over to make sure it’s honest and accurate. The respon-

sibility for an accurate return is yours.

11. Share/Borrow EITC Dependents: Neither a borrower nor a lender be. Unscrupulous tax preparers “share” one client’s qualifying children with another client in order to allow both clients to claim the Earned Income Tax Credit. For example, one client may have four children but only needs to list two to get the maximum EITC. The preparer will list two children on the first client’s return and the other two on another client’s tax return. The preparer and the client “selling” the dependents split a fee. The IRS prosecutes the preparers of such fraudulent claims, and participating taxpayers could be subject to civil penalties.

12. IRS “Agent” Comes To Your House To Collect: Common sense – don’t let anyone into your home unless they identify themselves properly; IRS special agents, field auditors and collection officers carry picture IDs and will normally contact taxpayers before they visit. If you think the person on your doorstep is an impostor, lock your door and call the police. To report IRS imposters, call the Treasury Inspector General’s Hotline at 1.800.366.4484. ■

As always, let us know how we can help you and your clients accomplish important goals through proper planning.

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