Good News for Tax Practitioners

By
Mark Matthews

Mark Matthews, Chief of IRS Criminal Investigation, discusses recent efforts to publicize CI indictments and convictions.

On July 2, 2000, Criminal Investigation (CI) reorganized under the newly modernized IRS. One feature of modernization that might be of interest to you is how we go about publicizing some of our cases in order to educate the practitioners and public in general. We believe that this new publicity philosophy recognizes the practitioner's role in compliance. When I came on the job last year, many practitioners, members of the American Bar Association and industry leaders kept asking me, "Mark, when are you guys going to do something about abusive trusts? When are you going to bring some criminal cases in this area?" And I would reply, "Did you know that we had 35 indictments last year and that we have 130 open criminal investigations in the area of abusive trusts?" And of course the common answer was, "No, and why are you keeping it a secret? That information would have been useful to us in our practice." And so we started looking at what we did with those cases. We found that we were taking standard press items from CI indictments and/or convictions, writing up a short press release and dropping it in the court house regular press box for court house reporters. We did not pay sufficient attention to whether those reporters or the readers they wrote for were interested in tax stories. We also tended to provide a fairly narrow range of information about the case and our work in the particular enforcement area. And so our stories got viewed in isolation, focused only narrowly on the individual defendant involved, and wound up in the Metro section of the papers.

When we work a case, we understandably put 99 percent of our effort into the lengthy, complex investigation, from initiation to sentencing. In the past, we have spent less than one percent of our time focusing on the broader deterrence value of our work, obtaining appropriate publicity on that case. This is where the taxpayers as a whole reap maximum value from our efforts. The Commissioner asked a consultant to conduct a public opinion survey about taxes. The results showed that the majority of taxpayers make an honest ef-

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fort to file accurate and timely tax returns. The survey also showed that those honest taxpayers wanted to know that everyone else pays his or her fair share of taxes—in fact, the survey said that taxpayers believe that they end up paying the tax bill for those who cheat. This reminds us that CI has two audiences for our deterrence message—the honest taxpayer and those who are tempted to cheat. We believe that our publicity efforts serve as a warning to those who may be tempted to cheat that there are criminal consequences for their actions. However, to a greater degree, we believe that the publicity reassures those honest taxpayers, who write a check every April 14 or 15 to the IRS, that we will investigate and refer for prosecution those taxpayers who deliberately decide not to pay their fair share.

Our new more comprehensive and more sophisticated media strategy has worked nothing short of a revolution in improving the effectiveness and profile of our work. Let me quickly say that we are doing all of this very carefully within the confines of the IRS disclosure provisions under Code Sec. 6103. To continue to use abusive trusts as an example, we created a website at *www.treas.gov/irs/ci*. Available on the website is a description of the schemes that were occurring in the abusive trusts area. We provide information about the number of indictments, the number of open investigations, the number of sentences and the average length of the sentences. Toward the end of the page on the website, we list the five or six biggest, most significant recent cases. We also provide the text from the IRS brochure, *Should your financial portfolio contain Too Good To be True Trusts*, a good source of information that the public should be looking for when considering a trust.

This has worked like a charm. Every time we get a new indictment or conviction in that area, we steer the reporters to that website. We tell the reporter, "Here's a press release on a conviction regarding an abusive trust; if you want more information for your story, here is the website; go back and pull everything off that." We are getting some great examples where reporters have done that—even including a little box story on the side with samples from the *Too Good to be True Trust* brochure.

So, we want to make as much information as possible available to the press. We want to make the stories less about the individual case and more about the big compliance problem the IRS is facing, by saying, "Here is what they are losing in terms of dollars; here are the schemes that are going on; and here is what IRS is doing in response, at least in the criminal area." It gives the media a better look at, and allows others to judge, what we are doing.

A great example of this new concept is the lead story in *Tax Analyst* on October 2, 2000: "IRS cracks down on abusive trusts."[1] This is new for CI; we used to get relatively small blurbs about a case. This is a much more comprehensive story in which a reporter included information from our website and included details from a huge conviction we had in Sacramento and a significant sentencing in Michigan. This is also an example of marketing our stories to periodicals that reach specific important reader segments like tax professionals.

We also need to focus on marketing stories about defendants in particular occupational codes to publications that cater to readers in the same professional areas. Surveys demonstrate that those readers are the most avid audience for those stories and, therefore,

Foreign and Domestic Trusts were identified as emerging areas of fraud in 1996 when CI had 22 ongoing investigations in its inventory. Two cases were recommended for prosecution that year. The following statistics demonstrate CI's stepped-up investigative efforts on promoters and clients who have been involved in abusive trust schemes.

	Fiscal Year 1999	Fiscal Year 2000	Fiscal Year as of 2/28/01
Criminal Investigations Initiated	67	47	21
Prosecution Recommendations	57	44	8
Indictments/Informations	35	53	17
Incarceration* Rate	85.7%	93.1%	81.25%
Avg. Months to Serve (w/prison)	35	33	45
Avg. Months to Serve (all Sent)	30	31	37

*Incarceration may include prison time, home confinement, electronic monitoring, or a combination thereof. Fiscal Year 2001, runs October 1, 2000, through September 30, 2001.

The following data is on foreign and domestic trusts investigations as of February 28, 2001.

Open Criminal Investigations	136
Percent of Open Investigations on Foreign Schemes	64%
Percent of Open Investigations on Domestic Schemes	36%

that those well-placed stories maximize the deterrent effect of our work. The *Wall Street Journal* has cited the CI website on the front page and several United States Attorneys have started citing the webpage in their press releases, so we think this is beginning to work. At another level, these better-placed and more comprehensive stories increase the public's and tax professionals' understanding and appreciation of the work we do.

Lastly, we now have 35 special agents serving as Public Information Officers (PIOs). They are working with their local media contacts to make sure that IRS Criminal Investigation does a better job of educating the public about areas of noncompliance. With the support of the Commissioner and the newly trained special agent public information officers, I know we can significantly improve our impact on tax compliance for each case we pursue. This is a very exciting and challenging time for CI and, together, we can look forward to an exciting future.

ENDNOTES

[1] Tax Analysts Doc. 2000-25174, 2000 TNT 191-1.

Criminal Investigation Tracks Down Abusive Trust Schemes

As mentioned in Mark Matthew's article, Criminal Investigation has a website at *www.treas.gov/irs/ci*. The home page is reproduced on the preceding page. The website also has a page devoted to abusive trust schemes, and a portion of that page is reproduced below. This page includes descriptions of abusive trust schemes and significant cases that CI has investigated.

Not long ago, an example of the work of IRS Criminal Investigation was publicized by the Department of Justice. As part of a series of investigations of alleged illegal offshore trust programs, the IRS recently took the largest enforcement action in its history, executing over three dozen search warrants and making four arrests. Two others were not immediately apprehended, but were also charged in the federal criminal complaint. Criminal Investigation special agents are investigating the case.

Six individuals from Massachusetts, New Jersey, Washington State, California and Costa Rica were charged in the complaint with conspiracy to launder $470,000, most of it through an illegal offshore trust program. Clients used the trust program to move and conceal money overseas in an effort to avoid paying U.S. taxes on the funds. Specifically, the complaint alleges that each of the individuals was a principal in, or referred clients to, an illegal offshore trust operation know as Anderson Ark & Associates (Anderson Ark).

According to an affidavit filed in federal court in support of the complaint, Anderson Ark is a Costa Rican offshore trust program. The affidavit states that the company provides wealthy clients from the United States with the mechanism to move funds, on which they were obligated to pay taxes, offshore to Costa Rican bank accounts set up to make it appear that the funds were neither owned nor controlled by the clients. However, according to the complaint, the clients did, in fact, own and control the accounts. Anderson Ark then helped the clients repatriate the money in various ways, thus giving them the use of the untaxed money.

If convicted, each defendant could be sentenced up to 20 years in prison and a fine of as much as $250,000.

—CCH

Internal Revenue Service
Criminal Investigation

HOME : Tax Fraud Alerts : Abusive Trust Schemes

This page was updated on March 5, 2001!
Updated Statistics
Promoters of abusive trust schemes sentenced to 11 years & 6 1/2 years (2/22/01).

Summary of Abusive Trust Schemes

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Introduction

In the last few years the Internal Revenue Service Criminal Investigation (CI) has detected a proliferation of abusive trust tax evasion schemes. Currently, there are two prevalent fraudulent schemes being promoted: the "domestic scheme" and the "foreign scheme." The domestic scheme involves a series of trusts that are formed in the U.S., while the foreign trust scheme is formed offshore and outside the jurisdiction of the U.S. The trusts involved in the schemes, either foreign or domestic, are vertically layered with each trust distributing income to the next layer. The result of this layered distribution of income is to fraudulently reduce taxable income to nominal amounts. Although these schemes give the appearance of the separation of responsibility and control from the benefits of ownership, these schemes are in fact controlled and directed by the taxpayer.

These schemes are often promoted by a network of promoters and sub-promoters that may charge $5,000 to $70,000 for their packages. This fee enables taxpayers to have trust documents prepared, to utilize foreign and domestic trustees as offered by promoters, and to use foreign bank accounts and corporations. In some instances, tax return preparer services are also made available.