

IRS Criminal Investigation: Enhancing Compliance in the Return Preparer Community

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Mark Matthews and Marilyn Davidson discuss return preparer fraud and its work in identifying, investigating and prosecuting abusive tax return preparers.

It's tax time! That's what many return preparation businesses are advertising this time of year. It's tax time at the IRS too, and we have some good news for the practitioner community. We are working to ensure that the unscrupulous individuals, those looking to make a "quick buck at the taxpayer's expense," are put out of business.

The IRS recognizes that the vast majority of return preparers and practitioners are legitimate, honest and serve their clients' best interests by preparing complete and accurate tax returns. These professionals render great service daily to the tax system by promoting voluntary compliance. Like you, we want to keep the bad apples out. Therefore, in 1996, Criminal Investigation (CI) implemented the Return Preparer Program (RPP), establishing procedures to enhance tax administration by identifying, investigating and prosecuting abusive return preparers. The IRS program was developed to enhance compliance by engaging in enforcement actions and/or asserting appropriate civil penalties

against unscrupulous or negligent return preparers.

What Is Return Preparer Fraud?

Return preparer fraud generally involves the preparation and filing of false income tax returns (in either paper or electronic form) by preparers who claim inflated personal or business expenses, false deductions, unallowable credits or excessive exemptions on returns prepared for their clients. Preparers may also manipulate income figures to obtain fraudulent tax credits, such as the Earned Income Tax Credit (EITC).

The preparers' clients may or may not have knowledge of the false expenses, deductions, ex-

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emptions and/or credits shown on their tax returns. The fraudulent preparers derive financial benefit from this activity by:

- diverting a portion of the refund for their own benefit;
- increasing their clientele by developing a reputation for obtaining large refunds; and/or
- charging inflated fees for the return preparation.

Electronic Filing

The advent of electronic filing of income tax returns (ELF) and the availability of Refund Anticipation Loans (RAL) has provided additional means for abusive preparers to commit fraud.

Since 1977, CI has been screening suspected fraudulent returns. The CI Fraud Detection Centers (FDC) do this at each of the 10 IRS campuses where tax returns are filed. These FDCs work closely with all other IRS operating units. The purpose of the FDC is to detect refund fraud and return preparer schemes and refer them to the CI field offices for further investigation. Since its inception in 1977, through 2000, CI, at the processing centers, has been successful in identifying in excess of \$2 billion in fraudulent refunds.

Chart 1
Statistical Information

IRS Criminal Investigation Return Preparer Statistics for Four Full Fiscal Years (October 1, 1998 - September 30, 2001).	
Investigations Initiated	468
Prosecution Recommendations	303
Indictments/Informations	291
Convictions	283
Incarceration Rate*	92.9%
Avg. Months to Serve (w/Prison)	20
Avg. Months to Serve (all Sentences)	18

* Incarceration may include prison time, home confinement, electronic monitoring or a combination thereof.

CI in conjunction with Information Technology Services (ITS) has developed the Electronic Fraud Detection System (EFDS). EFDS is a computer system used by CI that greatly enhances CI's ability to identify and stop fraudulent filings. EFDS receives the computer identification output of potentially fraudulent electronic filed tax returns, provides increased data for analysis and assists in the development of information relating to paper and ELF schemes. CI also uses *your* leads to identify fraudulent return schemes.

Earned Income Tax Credit

In fiscal year 2000, CI began a nationwide initiative to identify and bring criminal cases against return preparers who have prepared significant numbers of fraudulent returns claiming the EITC. The goals of this initiative are to investigate and prosecute instances of EITC fraud in an effort to deter other preparers and taxpayers from abusing EITC. The relationship between the IRS and the return preparer community is key to ensuring filing integrity because 62 percent of the EITC taxpayers use return preparers.

Return Preparer Web Site

On July 6, 2001, CI launched a new return preparer Web page on our public Web site at www.treas.gov/irs/ci. The return preparer Web page joined the already posted pages on the program areas of Abusive Trust Schemes, Employment Tax Enforcement and Nonfilers. The Web page provides an overview of the program area, statistical data (see Chart 1), and outlines tactics used by dishonest preparers, along with a few examples of badges of fraud to assist a taxpayer in making an educated decision before choosing a tax professional.

Case Summaries

The following case summaries are excerpts from public record documents on file in the court records in the judicial district in which the cases were prosecuted.

Return Preparer Sentenced for Filing False Returns and Perjury.

On January 25, 2002, in New Haven, Connecticut, William N. Jackson, doing business as The Tax Center, was sentenced to 42 months in prison, followed by supervised release. On May 25, 2001, Jackson was convicted on 11 counts of aiding and assisting in the preparation of false federal income tax returns. While imposing sentence, Judge Alvin W. Thompson stated that he was "struck by the pattern of deception" concerning Jackson's trial testimony.

Doing business as The Tax Center, Jackson created fictitious businesses with fraudulent business expenses to offset reported income for his clients. Jackson also inflated legitimate expenses, including gifts to charity and, for

some clients, he reported names of dependents who were not known to his clients.

Unscrupulous Return Preparer Gets 30 Months in Prison; Clients Must Pay Back to IRS Over-Claimed Refunds, Plus Penalties and Interest. On January 23, 2002, in Oklahoma City, Oklahoma, Elcanyo C. Robertson was sentenced to 30 months in prison, one-year supervised release and was fined \$5,000. Robertson was indicted in July 2001 on 13 counts of aiding and assisting in the preparation of false and fraudulent returns. In September 2001, Robertson pled guilty to one count and admitted he prepared returns claiming business losses or exemptions to which the taxpayers were not actually eligible to claim. The falsely claimed losses and exemptions discovered during the investigation resulted in a net loss to the Treasury of \$209,933. Individual taxpayers involved are paying back the amounts over-refunded, as well as penalties and interest.

Father and Son Tax Return Preparers Guilty of \$35 Million in Inflated and Fictitious Deductions and Losses Claimed; Father Sentenced to Nine Years in Prison. On October 16, 2001, in New York, New York, Bruce Rosenberger was sentenced to nine years in prison and ordered to pay to the IRS all back taxes, together with interest and penalties. The sentencing date for John Rosenberger has not been set.

On July 5, 2001, in New York, New York, Bruce Rosenberger and his son, John Rosenberger, pled

guilty to charges relating to their preparation of individual and partnership income tax returns for their clients that contained more than \$35 million of inflated and fictitious deductions and losses. The Rosenbergers also pled guilty to personal tax evasion for the 1994–1997 tax years, based on their failure to report more than \$1 million in client fee income.

Bruce and John Rosenberger admitted to conspiring with others to prepare false partnership and personal income tax returns for clients of their tax preparation business, R&R Associates. According to court

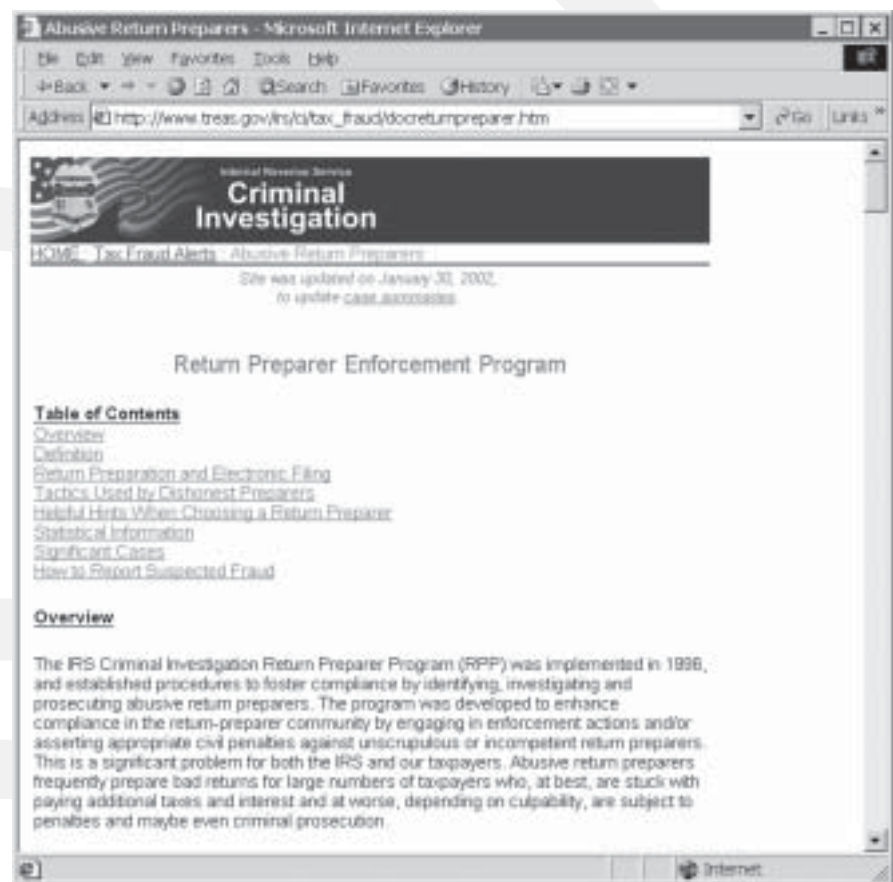
records, 18 taxpayer clients of the Rosenbergers have previously pled guilty to a variety of tax-related charges based on false income tax returns signed by the clients and prepared by the Rosenbergers.

To Report Suspected Tax Fraud

If you suspect tax fraud or know of an abusive return preparer, you should report this activity, by phone or in writing, to your nearest IRS office. You can contact the IRS by phone at 1-800-829-0433.

Figure 1

www.treas.gov/irs/ci/tax_fraud/docreturnpreparer.htm



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